

No. 14656

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United States  
Court of Appeals  
for the Ninth Circuit

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HANS FORSTER, Appellant,  
vs.  
UNITED STATES OF AMERICA, Appellee.

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Transcript of Record  
(In Six Volumes)  
VOLUME V.  
(Pages 1869 to 2328, inclusive)

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Appeal from the United States District Court for the Western  
District of Washington, Northern Division

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(Testimony of L. Hicks Taylor.)

Q. Mr. Taylor——

A. (Interposing) Have you the copy of the deed? Pardon me.

Q. Pardon me. I will ask the questions.

Mr. Taylor, that deed carried \$32? By [4049] “that deed,” I am referring to the deed from Mr. Forster to Mr. Morris. That deed carried revenue stamps of \$32, didn’t it? A. I do not know.

Q. Do you know the state tax per thousand conveyance upon a deed?

A. Not at the present time, I do not know.

Q. You handled all tax matters for Mr. Forster and all these corporations?

A. I have services, I could look it up. I haven’t it in memory.

Q. Do you recall what the State Stamp Tax per thousand on conveyance of real estate was in 1946?

A. No, I do not remember.

Q. Would you say it was not \$1 a thousand?

A. I do not remember.

Q. What was the Federal Excise?

A. I do not remember.

Q. Would you say it was not \$1.10?

A. I do not know.

Mr. LeSourd: Objected to as argumentative, your Honor.

Q. (By Mr. Griffin continuing): Now, with Exhibit A-81, being your receipt for the \$500 upon a sale price of \$15,500, [4050] have you any other explanation than that you made this morning as to how you handled that transaction upon the books?

(Testimony of L. Hicks Taylor.)

A. The sale price upon the books was \$14,500.

Q. Yes, and that is the same sales price that you carried into Mr. Forster's income tax return?

A. That is correct.

Q. And there was an additional \$1,000 of income in which you prepared the receipt, Exhibit A-81, that you didn't return as Mr. Forster's income, wasn't there?

A. The record shows that I did not return it, but I did not consider it an income to Mr. Forster, because it applied on a contract for the purchase of equipment that was not being sold.

Q. Mr. Taylor, any amount of money received by Mr. Forster for something that he sold became a part of gross income, didn't it?

A. That situation reverts itself into a barter in property, not in cash. Mr. Forster was reporting on a cash basis.

Q. Yes, and reporting on a cash basis, Mr. Forster must report every five-cent piece that he received, doesn't he?

A. He didn't receive every five-cent piece for that full amount of money. Mr. Forster received a [4051] credit against equipment purchased that was not sold, and there was no profit or loss application upon it.

Q. Was this the same equipment that you handled down at Simonson and Forster the same way?

Mr. LeSourd: Objected to.

Q. (By Mr. Griffin continuing): Amending that question:

(Testimony of L. Hicks Taylor.)

The same equipment—was it the same equipment you handled at Simonson and Forster?

A. It had no connection.

Q. No connection; you are a licensed public accountant, Mr. Taylor? A. I was.

Q. By that, you mean your license has been suspended?

A. I returned my license to the Board.

Q. After conviction? A. Before.

Q. What is a licensed public accountant?

A. Would you like me to explain the law?

Q. No, I just want you to tell the jury what is a licensed public accountant? Is there a distinction between a licensed public accountant and a certified public accountant?

A. Very much of a distinction, yes. [4052]

Q. When you say that you returned your license to the Board, you are referring to the Board—State Board set up by the State of Washington governing licensed public accountants and certified public accountants, aren't you?

A. It is my memory that in either 1948 or 1949 a law was passed by the Legislature combining the certified public accountants and licensed public accountants and public accountants into one law.

Licensed public accountants, then, in essence, have been men who were in the public accounting business and had maintained an office and operated in the City for a period of five years or longer. They were actually practising public accountants.

Q. Now, what is the difference between a li-

(Testimony of L. Hicks Taylor.)

censed public accountant and a certified public accountant?

A. A certified public accountant takes an examination on the theory of accounting. A licensed public accountant obtains his license through having had experience.

Q. And when did you obtain—when did you first become a licensed public accountant?

A. In April, I believe, of 1934.

Q. And you also had a card to practice before the Internal Revenue Bureau, didn't you? [4053]

A. Yes, I did.

Q. And by that, only lawyers and only accountants that hold this special card issued by the Department may practice before that department; that is true, isn't it?

A. That is according to Code 230.

Q. Yes, and you did practice before the Internal Revenue Department, did you not?

A. In a small degree, according to the type of my business, yes.

Q. And you were the president for two terms, was it, of the State Organization of Licensed Public Accountants? A. That is true.

Q. In—if I understand you correctly, you testified that, referring to you and your firm as L. Hicks Taylor and Company, that "We do not make audits"? Is that correct?

A. That is not our practice to make audits.

Q. And in answer, many times, to questions on

(Testimony of L. Hicks Taylor.)

cross-examination, you said "I did not audit the books"; is that correct?

A. That is correct, yes.

Q. You represented to Mr. Forster that you were an auditor, didn't you? [4054]

A. Mr. Forster knew at all times I was not auditing his books.

Mr. Griffin: May I have the question read, please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. (Continuing) I don't believe that I ever did.

Q. (By Mr. Griffin): You represented to the public of the State of Washington, that you were an auditor, didn't you?

Mr. LeSourd: I object to this line of questioning. Is he using the word "auditor" as meaning an accountant, or as meaning he made an audit? It is ambiguous and improper, your Honor.

The Court: Objection overruled.

The Witness: Would you read the question, please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. I represented that I could perform an audit, yes. [4055]

Q. (By Mr. Griffin): That you could perform audits? A. Yes.

Q. You did audit for Mr. Forster, didn't you?



(Testimony of L. Hicks Taylor.)

A. I did not.

Mr. Griffin: Will you mark this letter for identification, please?

The Clerk: Defendants' Exhibit No. A-83 marked for identification.

(Defendants' Exhibit No. A-83 marked for identification.)

Q. (By Mr. Griffin): Mr. Taylor, you handled the negotiations for Mr. Forster in the contemplated purchase of the Selah Home Dairy, did you not?

Mr. LeSourd: Objected to, your Honor, as improper cross-examination and irrelevant and immaterial.

The Court: Is that part of the——

Mr. Griffin: (Interposing) This is preliminary although it would be material upon his testimony that he was not a financial adviser.

The Court: If it is a preliminary matter, the Court will overrule objection.

A. Yes, I went to Selah with Mr. Forster to look [4056] at a dairy.

Q. (By Mr. Griffin): Handing you Exhibit A-83, Mr. Taylor, I will ask you what that is.

A. "Mr. Forster——."

Q. Just what is it, Mr. Taylor?

Mr. LeSourd: Just a moment. Identify the document.

A. This is a letter that I wrote to the Selah Home Dairy.

Q. (By Mr. Griffin): On your letterhead?

A. On my letterhead, yes.

Mr. LeSourd: We object to it, your Honor, as improper cross-examination and irrelevant and immaterial, and back in the period of 1939 and has nothing to do with this case in any respect.

The Court: May I see the document?

(Whereupon, document was handed to the Court.)

The Court: I am inclined to sustain objection, Mr. Griffin.

Mr. Griffin: Did you look at the letterhead?

The Court: Yes, but I—I will hear from you later on it, if you wish.

Mr. Griffin: I would like to be heard [4057]

The Court: Now?

Mr. Griffin: I would like to be heard now.

Mr. LeSourd: Let me say, your Honor, if the purpose of this is to show that L. Hicks Taylor and Company had letters describing themselves as accountants and auditors, I certainly will stipulate to that. It has no——

Mr. Griffin: (Interposing) Excuse me.

Mr. LeSourd: Yes.

Mr. Griffin: It is not a matter of stipulation. The purpose of the letter is for the letterhead. I can't conceive of anything more material than this letterhead under the witness's testimony.

Mr. LeSourd: I fail to see the materiality of it. He said already in his testimony several times that his firm made audits, not very many, but on occasion, and if counsel wants to establish that their letterhead described them as accountants and auditors, I will stipulate.

Mr. Griffin: I will accept the stipulation as the letterhead December 26, 1939—may I read the letterhead?

Mr. LeSourd: Yes.

Mr. Griffin: "L. Hicks Taylor and Company, Accountants and Auditors, Textile Tower, Main 0799, Seattle, [4058] Business Analysis, Audits, Systems, Income Tax Service." See: "L. Hicks Taylor, William P. Berry, Licensed Public Accountants, Ralph E. Doremus."

I accept the stipulation.

The Court: Do you offer A-82, Mr. Griffin?

Mr. Griffin: That is the one I am offering.

The Court: No, this is 83.

Mr. Griffin: Pardon me. Yes, I offer it.

Mr. Moriarty: The carbon copy?

Mr. Griffin: Yes, of A-80.

The Court: Yes. The same objection will show, I assume, Mr. LeSourd, and the Court will overrule that and admit A-82.

Mr. LeSourd: Yes.

(Defendants' Exhibit No. A-82 admitted in evidence.)

The Court: And the Court sustains objection to A-83.

The Clerk: I didn't hear the *Clerk's* ruling to A-82.

The Court: A-82 is admitted.

Mr. Griffin: Will you mark this document?

The Clerk: Defendants' Exhibit A-84 marked for identification.



(Defendants' Exhibit No. A-84 marked for identification.) [4059]

Mr. Griffin: I offer in evidence a certified copy of the Excise Tax Return of Hans Forster, doing business as Alpine Dairy to the State of Washington for the months of May and June, 1947.

The Court: That is a State of Washington Tax Return?

Mr. Griffin: Yes.

Mr. Moriarty: We have no objection to the exhibit, but do not regard it as proper cross-examination, if the Court please.

Mr. LeSourd: If the Court please, we have no objection as to identity in the first place. We don't know what the relevancy or materiality is. It doesn't appear here, and we will object on that ground, and on the ground of improper cross-examination.

If it is desired—if it is Counsel's purpose of introducing all this simply to show that Mr. Taylor describes himself as auditor, we will so stipulate. He testified in his direct examination that he often times used the word "auditor" interchangeably with "accountant."

If that is the purpose of the exhibit, we will stipulate.

Mr. Griffin: I am not asking for a stipulation.

The purpose of them is it is a return made for Hans Forster under his own signature and his own description [4060] of himself on the second page.

Mr. LeSourd: We will object to the document as improper cross.

Mr. Griffin: He testified he did not audit for and never audited for Hans Forster.

Mr. LeSourd: I will ask that remark to be stricken, your Honor. It is not a correct statement of his testimony.

The Court: Well, Counsel's comment I will not strike, but I will suggest to the jury that they disregard them, however, because they are not evidence and not to be considered as evidence.

I will sustain the objection, Mr. Griffin.

Mr. Griffin: If the Court please, may we adjourn right now, then?

The Court: All right.

Ladies and Gentlemen of the Jury, we will recess now, so that the Court can hear argument.

We are going only half a day tomorrow, so that we will start at 9:30 and recess at a quarter to 12:00. So, the Court calls your attention to the admonition given you on similar occasions and asks that you heed it on this occasion, and then we will recess until 9:30 so that if you will be here a little in advance, we will adjourn at a quarter to 12:00.

(Whereupon, the Jury retired from the court room.)

The Court: It is stipulated the Jury have left the court room?

Mr. Griffin: Yes.

Mr. Moriarty: Yes, your Honor.

The Court: All right, Mr. Griffin.

Mr. Griffin: I would assume that I am entitled to meet the testimony of Mr. Taylor and entitled to try and defend on behalf of Mr. Forster.

This witness has testified—his whole claim is—he had nothing to do with the whole books and records, except figures given him; he was never an auditor for Hans Forster or Issaquah Creamery and Mr. Forster had no right to rely on him at all.

I propose to show that he described himself as the auditor of Hans Forster and the Alpine Dairy, of the Issaquah Creamery, and that he advised the State of Washington that he was the Auditor for all tax matters of Mr. Forster and the Issaquah Creamery, and his own letter in that particular—do I have—does Mr. Forster have to sit here and accept this witness's statement and implications from it that he didn't audit his books, and had nothing to do with it except some figures given him by a bookkeeper and [4062] wasn't paid for being an auditor without any answer for anything he did.

I can conceive nothing more material than these returns supported by the audits that he made and his presentation that he was caring for all the auditing of Hans Forster. They don't come in all together; they come in one by one. If that is not the situation, then there is no defense, and we are bound by the witness's testimony, and the Court might as well instruct the verdict releasing Mr. Taylor and convicting Mr. Forster.

The Court: The last, I don't think, follows.

Mr. LeSourd: If your Honor please?

The Court: Mr. LeSourd?

Mr. LeSourd: If the issue here is whether an audit was made of Issaquah Creamery and Alpine Dairy in the years in question, certainly the use of

the term "auditor" in describing himself is no proof that an audit was made, and it is utterly irrelevant and immaterial, because this isn't any showing that any audit was made during the years.

If that is your purpose, Mr. Griffin, I assume that you have some evidence that you are going to try and show it, but this doesn't show it.

Mr. Griffin: It isn't a question of whether an audit is made. As your Honor said time after time, it [4063] is a question of what Mr. Forster believed. Did he believe L. Hicks Taylor was an accountant, sitting in Seattle, or did he believe he was an auditor? Was Taylor making returns to the State of Washington for his businesses believing that he was an auditor?

I may sound warm and I don't mean to be, but this is the first time I have been so surprised as to the materiality of the written documents of the witness himself. The whole matter of this case is, when we are down to it, did Forster have a right to rely on Mr. Taylor? Did he believe that he was being taken care of, or was he engaged in evading his income taxes wilfully? Which one of these men were doing it, or were either one?

The sole question in this case is the intent of these defendants. Did Forster have every right to rely and believe that this man was an auditor in taking care of his books? I don't care whether they call him auditor or accountants. These are documents that go to show that he did, and I propose to start with the early years to show that he made audits, and they were called "audits," and that is



what he sold his bill of goods on back in the '30s. That is why we did not have much conversation in the late '40s. This goes over a long period of time.

The Court: It is your contention that this is a type of document wherein he signs as auditor, and is admissible to establish that fact?

Mr. Griffin: To establish that fact. It goes to the very basis of our case, and to the credibility of the witness. They can't come all together. We are taking them up separately.

Mr. Moriarty: It is the Government's position, if your Honor please, that we made no objection to A-83, which was a document in 1939 regarding Mr. Taylor being a business analyst, auditor and income tax adviser, and it was offered for that purpose, and eventually stipulation was accepted by Mr. Griffin.

Now, A-84 happens to be a certified copy of a document on record in the State Tax Department of an Excise Tax, which is not shown was ever seen by Mr. Forster or upon which he could rely upon, and the addition of any further documents that is proposed on this line under stipulation will do nothing but add confusion to the real point of the case.

Mr. LeSourd: Furthermore, your Honor, the fact that an accountant uses the word "auditor" in describing himself certainly does not in any way mean he is making an audit, nor is there any scintilla of proof that any such audit was made, or that anyone has [4065] a right to rely on the fact that an audit was made, least of all an employer that is paying him.

Mr. Griffin: I wonder if the Court realizes that up to this point in the case, notwithstanding counsel's statement, there hasn't been a single word of testimony about the original employment, or any testimony along that line; while counsel's statement is sound, it is an action for quantum meruit, for money earned. There is nothing in this record, if you look back on it, except Counsel's statement on the matter of employment.

I am giving that warning now so that they can be ready for it. I am not concerned whether he made an audit at all. I am concerned with what he led Hans Forster to believe he was and was doing. I am concerned why this jury should believe that up to the time of Taylor's confession of guilt in his own income tax return—I am interested in this jury having reason to rely upon Mr. Taylor in the caring for his books, and whether he had a right to rely. It goes to intent, and whether he had a right to rely or not.

The Court: You may step down, Mr. Taylor.

(Whereupon, witness withdrew from the witness chair.)

The Court: I say, of course, that anything that would [4066] tend to establish Mr. Forster's reliance upon Mr. Taylor in income tax matters is proper, but the question is: Does this particular document, or any other document, serve to do it?

Mr. Griffin: All right; if Taylor had never in his life had a letterhead that said he was an auditor, and never returned—made returns for Hans Forster and Issaquah Creamery saying that he was an

auditor, and actually never made any audits, that would be one thing.

Hans Forster, how could you rely on this man who never claimed to be an auditor and never audited for you, and never made any returns to the State or Federal Government in the nature of an audit? I believe that would be a very plausible argument to the Jury.

I propose to show that he did the very opposite, and that that is just as material in my case as the other could be material in their case, and the Government's case.

As a matter of fact, that is the representation they made to the Jury in their case. I propose to show just the reverse, by the witness's own testimony.

It affects anything from credibility on [4067] out, but primarily it just goes to the heart of the matter of intent. Who was deceiving whom?

The Court: Well, I take it, Mr. Griffin, you feel it is very important to your case, and I will be happy to give further consideration before making final ruling on it, although, as I have indicated, it appears to me at this time not to be admissible.

Mr. Griffin: I may say that there will be additional ones for the year 1948.

The Court: That is this same type of document?

Mr. Griffin: 1949, for the Issaquah Creamery, 1948, and the additional matter, as far as correspondence is concerned, supporting Mr. Taylor's claim that he was auditor for Hans Forster, Alpine Dairy and the Issaquah Creamery Company. I

think the Jury can infer that if he made those representations to the State of Washington, perhaps Hans Forster was not so false in believing his books were being properly taken care of by an auditor.

The Court: What limitation do you think, Mr. Griffin, there might be on anything of that character? Would it have to be—I take it, to begin with, you feel it is not necessary that the matter be called—or written to Mr. Forster or called to his attention? These particular documents, of course, while they relate to the Alpine Dairy, the signature here, of course, I [4068] assume, didn't come to the attention of Mr. Forster.

Mr. Griffin: That is correct. I wouldn't assume it would, either, because the auditor, L. Hicks Taylor, was handling all these matters that had been turned over by Mr. Forster to his auditor, L. Hicks Taylor.

The Court: You say it goes to the intent. In other words, this whole issue is to establish Mr. Forster's justification in relying entirely upon Mr. Taylor?

Mr. Griffin: Yes, your Honor. We are dealing with specific years, which are the end years of a 25-year relationship of accountant-auditor and client, and it isn't surprising that the Government has not produced, or that there was very much said between these people in the five years at issue, because that situation was built in the 15 years before.

Now, it may have been built, and the Jury can find it was built, under a conspiracy to cheat and



defraud between these two people, or either one of them. I realize the implication when I get through this cross-examination, but I intend to have established—I may suggest to you that I have weighed whether I am not establishing more strongly the Government's case than it has been able to establish itself.

However, I propose to do it so that this [4069] jury may determine this matter of what the intent was in these years, but it is built from what the situation was between these two men in the years the preceded it, and they built that situation, and the fact that Taylor audited for Hans Forster—Forster doesn't know the difference between an audit and a statement, the evidence shows—that is, if the jury believes it but he audited and reconciled the bank accounts when he gained the original employment. From there on, I propose to show, sir, that it was his kind of bookkeeping that snowballed, year by year, into the result that you get in these five years, just as if one of these were snowballed into the other.

I show it from his own books and his own records—that is, Hans Forster's books and records, but kept by Hicks Taylor—and not maintained as he said or as he claimed, just from figures handed to him.

He started out and got the confidence to begin with, and got a job to begin with. As a matter of fact, that was said in the opening statement of opposing counsel as part of this case. You cannot separate these five years that are in question from

a life time of these individuals, as to what occurred in those five years. Confidence was built of the one in the other. That confidence, sir, went past [4070] the confession of guilt of Taylor. It maintained—it was maintained by Forster until it was spread before him by other accountants, that which this man did.

Now, we are dealing with the minds of two men and thoughts and their intent. We can only establish it by these items that raise the question of credibility on the one hand, and the things he did on the other, and the representations that he made. He says he never represented that he was auditing. It was his testimony to begin with.

I have said all I care to now. It is adjourning time.

Mr. LeSourd: May Mr. Cox be excused?

The Court: Yes, you may be excused, Mr. Cox.

(Whereupon, Mr. Cox withdrew from the court room.)

Mr. Moriarty: It is the Government's position, if your Honor please, that regardless of the statements of Mr. Forster, that he reported each cent to Mr. Taylor, the fact that Mr. Taylor held himself out to somebody else is so confusing in the light of the mass of documents here, that I don't see any value other than the stipulation by Mr. LeSourd on behalf of Mr. Taylor. The documents don't add to it.

Mr. Griffin: We didn't put 280 documents in to add confusion. [4071]

Mr. Moriarty: You can put 280 of Excise Tax in alone.

Mr. Griffin: That is right.

The Court: Mr. LeSourd?

Mr. LeSourd: I don't intend to also make a speech summarizing my case, as Mr. Griffin might have in a speech to the Jury, but I want to emphasize that the descriptive term "auditor," which has been used by many witnesses right here on the stand—it is a common expression—we are perfectly willing to stipulate, as Mr. Taylor testified on his direct, that many times that word is used in place of "accountant," and beyond that, there is no relevancy to this thing at all.

If they can prove an audit was made, let them prove an audit was made, but certainly a term like that has no meaning in this case.

The Court: As I stated, I will consider the matter and make a definite and final ruling in the morning. And, remember, we meet at 9:30 tomorrow.

Mr. Moriarty: Did you tell the jury?

The Court: Yes, I told the jury.

Court will recess until 9:30.

(Whereupon, at 4:14 o'clock p.m. April 15, 1954, a recess was had in the within-entitled and numbered cause until 9:30 o'clock a.m. April 16, 1954.) [4072]

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The Court: Before we call the Jury, in regard to Exhibit, for identification, A-84, the Court will

adhere to its ruling indicated last night, and sustain the objection.

You may call the Jury.

Mr. Griffin: At this time, the Defendant Forster,——

The Court: (Interposing) (To Bailiff) Just a moment.

Mr. Griffin: (Continuing) At this time, the Defendant Forster is compelled to, and does, move for a mis-trial upon the ground and for the reason that it is now definitely apparent, by the atmosphere that has been created, both by the Government and by the ruling of the Court, that no fair trial can be had. The Government has objected to a document offered in evidence upon the ground that it will clutter the record. The Government, over Counsel's objection for Mr. Forster spent two months introducing some 370 exhibits of thousands of pages. It is now suggested a photostatic copy under the seal of the Secretary of the State of Washington of two pages, which bears the signature of the witness on the stand as an auditor for Mr. Forster and the other Forster enterprises, will clutter the record. [4078]

The Government has stated that. Very well. I am stating the reasons for my motion which will proceed from now on, day to day, and without having to reiterate it at that time.

The Government, on cross-examination of the witness on the stand, so-called cross-examination——

Mr. Moriarty: (Interposing) I didn't hear you.



Mr. Griffin: I say, the Government, in cross-examination of the witness on the stand, one of the defendants, conducted the cross-examination in a manner and with the plain desire to in nowise compromise the witness on the stand, but let him re-iterate again his method and claim of defense, the first time in a court room, doubtless since Courts began, that the Government had a witness on the stand, a defendant, taking the stand, convicted of a crime, the same crime that is charged in this case, and did not cross-examine as to that matter, leaving for counsel for Mr. Forster the necessity of, in the face of the Court's rulings in these matters, presenting to the jury a position that the Court says cannot be sustained, and where it has to be done now, because of the error committed, and I say this with all the solemnity that I can, that there is not only error in the ruling of the Court—and I am presuming the additional [4079] rulings as we come along in these matters—it is absolutely prejudicial. It prevents the Defendant Forster from having a fair trial. It cannot be had.

On the other hand, as far as the Defendant Taylor is concerned, while the Court had no control of any kind over the opening statement of counsel for Mr. Taylor as to proof to be offered, it has permitted the widest latitude of collateral matters, it has permitted attack upon one of counsel for Mr. Forster at the very beginning of this trial, and he had to withdraw therefrom. The Court ruled and sustained the right of Mr. Taylor, the Defendant, to substantiate the position taken in the opening

statement. Whether I will be permitted to meet any of that, I don't know. I will reach that as the time comes. However, as I recall, sometime during the trial in the latitude admitted, it was due in part, and I think primarily, to the suggestion that Taylor, having moved for a severance and also claiming that the documents being used were confidential, and the private records of Mr. Taylor, I think your Honor felt that, and so stated the fact that, that was one consideration for your ruling insofar as Taylor was concerned, so that there could be no claim of prejudice.

However, it now develops—three things [4080] developed. Voluntarily, the witness Taylor on the witness stand, testified that these documents, to-wit: his work sheets, are part of the ledgers, or, as he put it, part of the books, and he sat on the witness stand and couldn't explain the books, the ledgers, without his work sheets. They were the property then of Mr. Forster. Beyond that, he has now testified under oath that he voluntarily took all of these documents to the Issaquah Creamery and left them there for the use of such people as might want to use them, the very purpose being used here.

Now, since certain people used them, he was indicted. Now, with that atmosphere created on behalf of Mr. Taylor, who testified for days, and his whole case was based upon an attack upon one of counsel for Mr. Forster, and his whole position being that he was not an auditor and never audited anything, that Mr. Forster had no right to rely upon him, in fact, that he relied upon Forster,

testifying the duty of Mr. Forster that his duty, he, Forster, to Mr. Taylor, was greater than he, Taylor's, duty to Mr. Forster, I am prevented from showing under his own handwriting that he represented himself throughout the State of Washington to the taxing authorities and the public in general that he was an auditor, and that beyond that, he did [4081] audit and that, in that atmosphere, I will now have to proceed with a jury, long tired and wants this case to end, I am compelled to proceed in that atmosphere, the cold, hard way of asking a question, repeated with exhibit after exhibit, and taking the ruling of the Court, and I can't prove these things, thereby, of course, antagonizing a tired jury.

I feel that your Honor—I don't know on what grounds you sustained the rejection of the exhibit, and will such like exhibits, but I think, subconsciously, perhaps, you are also tired, and not the only one, and that you realize we have no alternate jurors, and there is the danger that someone might get ill, and there would be a mis-trial, but that can have no bearing upon the right of the Defendant Forster to cross-examine this defendant upon the witness stand upon matters material to the issues in this case, and these matters which I will endeavor to cross-examine on, following the rejection of this, are so material, that with the ruling and the position taken by the Government in support of Mr. Taylor on the witness stand, it makes it utterly impossible in this continuing atmosphere to have a fair trial.

I am not crying. I am presenting it as a cold, legal proposition, basing my record now at [4082] this late stage where I didn't want any error in this case for the purpose of appeal, because as far as the effect is concerned, on this tired jury, the Court might as well direct a verdict of acquittal for Taylor in the protection that has been given him and of guilty to Forster; and I rely upon appeal, and appeal only, because we are prevented, as it has turned out, from being able to present our case as against the, practically the, chief witness for the Government in full and upon matters that are strictly in issue, the only matters, when you come down to the final analysis, that are issues in this case, which I cannot prove or disprove, the intent or inner workings of the mind, except by circumstantial evidence. Those things that he did, and those things that he wrote and the things that he signed. I am deprived of that, and being so deprived, I have one of two options: to cease questioning, or proceed, realizing just where I am headed, and I am now headed, as I say, as we proceed, directly and deliberately, in making a record, offensive as I know from the time element that will be to the jury, in taking the time to do it, but it will have to be done separately as each matter arises.

I will renew this motion later, without reiterating what I have here stated in the grounds [4083] for the motion.

Mr. Moriarty: May it please the Court,—

The Court: (Interposing) Before the Court



hears other counsel, the Court will make this comment:

Counsel's comment, of course, is part of the record and may be properly stated. I might say, in response, that the Court has, in all respects sought in every way to see that a fair trial is granted to all defendants, and believes that all defendants are entitled to a fair trial. In making my ruling, I make it on this document on the record made only without relation to any other documents that are to be offered.

Mr. Moriarty: May it please the Court——

Mr. Griffin: (Interposing) Before you speak may I say I did not want to state or infer that consciously your Honor was not endeavoring to grant a fair trial. What I mean to say is that the entire atmosphere and the rulings that you have felt compelled to make from my position make it impossible, not that your Honor consciously for a moment had any thought of not granting a fair trial.

If you rule on every question I ask, sir, from here on in, I can assure you that I wouldn't consider for a moment that you didn't think from where you sat, that you were not granting a fair trial, so that I don't [4084] want any personality in that at all.

The Court: I am certain of that, Mr. Griffin, and I am sure that is true of all Counsel. I thought, in view of the comment of Counsel, that the Court should add that comment.

Mr. Moriarty: In view of Mr. Griffin's statement, in view of that, some of the matters may be left un-

said by the United States Attorney. However, there are a number of things said as to the Government's lack of diligence in inculcating Mr. Taylor, and for the record, I make this statement, that perhaps the reason we did not refer to Mr. Taylor's prior conviction, was because from the opening, and all through the last two months on trial it has been referred to, and indirectly stated, and during Mr. Taylor's direct examination, he referred to the time he was at McNeil Island, and we saw no further reason to inquire, because we knew it was fully in the record and would be a waste of time and for the further reason, we felt, after A-83 was entered, a document in 1939, and was introduced solely for the purpose of establishing that Mr. Taylor had posed and held himself out as an auditor at that early date. We made no objection to it, and particularly, we made no objection in view of the fact that Mr. LeSourd, on behalf of his client, stipulated he held himself [4085] out during this period and would agree to that stipulation.

These documents now being introduced in evidence, particularly A-84, which is the subject of the motion, is the document Mr. Taylor signed, but there is no relevancy to this matter in view of the stipulation. It would be my opinion that Mr. LeSourd's stipulation should satisfy Mr. Forster, that from the time of 1939 down to the period covered by the Indictment, he posed and held himself out not only to be an auditor and an accountant, but a business analyst and an Income Tax Adviser.

Now, the vice of attempting to have all these docu-

ments in is that it is irrelevant, except to the ultimate fact that Counsel has been willing to stipulate, and it is the opinion of the Government that the case should be presented clearly on what the Government contends, that each and every one of the defendants filed and joined in the filing of a fraudulent income tax, and we do not want that lost sight of, by a mass of documents, that Mr. Taylor signed some documents and added the word "auditor." We will continue our objection.

The Court: You may call the Jury.

Mr. Moriarty, the Clerk calls my attention to the fact that you stated A-83 was in. A-83 is not in.

Mr. Moriarty: The business accounts?

The Court: The letter is not in.

Mr. Moriarty: At the time it was offered, the stipulation was made.

The Court: The stipulation was made which covered the letterhead.

Mr. Moriarty: Yes. I presumed it had been admitted. Anyway, it was only offered for that purpose, and the stipulation covered it.

The Court: Yes, the stipulation covered the fact that would have been established by the letter.

Mr. LeSourd: By the letterhead.

The Court: Yes.

(Whereupon, the Jury was returned to the court room.)

The Court: You may be seated.

It is stipulated that the Jury and all Defendants are present in the court room?

Mr. Moriarty: Yes, your Honor.

Mr. Griffin: Yes, your Honor.

The Court: You may proceed, Mr. Griffin. [4087]

L. HICKS TAYLOR

upon being recalled as a witness for and on behalf of the Defendant Taylor, and having been previously duly sworn, resumed the witness stand and testified as follows:

Cross Examination (continued)

Mr. Griffin: Will you mark this document for identification, please?

The Clerk: Defendants' Exhibit No. A-85 marked for identification.

(Defendants' Exhibit No. A-85 marked for identification.)

Q. (By Mr. Griffin): Mr. Taylor, handing you Exhibit A-85 for identification, I will ask you if that is a photostatic copy of the Excise Tax Return of Hans Forster-Alpine Dairy, for the month of November and December, 1948?

A. The original copies are in the file. That is a photostat.

Q. Is this your signature on the second sheet of the photostat?

A. Yes, that is my signature.

Q. Yes? A. Yes, sir. [4088]

Q. And right underneath it, the word "auditor" is your writing? A. That is correct.

Mr. LeSourd: Same objection, your Honor.

Mr. Moriarty: Same objection.

Mr. Griffin: I offer A-85.



(Testimony of L. Hicks Taylor.)

The Court: The same objection?

The Court will sustain the objection and the same showing may be made by Mr. Griffin.

Mr. Griffin: These will take offers of proof in the absence of the Jury.

The Court: Yes.

Mr. Griffin: Later, if the Court please, I will have to proceed with these.

Will you mark this for identification, if the Court please?

The Clerk: Defendants' Exhibit No. A-86 marked for identification.

(Defendants' Exhibit No. A-86 marked for identification.)

Mr. LeSourd: If we have a number of these certified copies, we will stipulate to the identity if they are certified copies.

The Court: Do you wish to identify each exhibit, Mr. Griffin? [4089]

Mr. Griffin: Yes, your Honor.

Q. (By Mr. Griffin): Mr. Taylor, I hand you A-86, and I ask you if that is a photostatic copy of the Excise Tax Return of the State of Washington for the period March-April, 1949, for Hans Forster and Alpine Dairy? A. Yes, it is.

Mr. LeSourd: I believe that is sufficient for the identification.

Q. (By Mr. Griffin): Is that your signature?

Mr. LeSourd: Just a moment. I think that is sufficient for the identification.

(Testimony of L. Hicks Taylor.)

The Court: If there is any question about it, the Court will permit further identification.

Q. (By Mr. Griffin continuing): Is that your signature?

The Court: You may answer.

A. Yes, it is.

Mr. LeSourd: All right, that is sufficient.

Q. (By Mr. Griffin): Your writing also, the word "auditor," under your signature?

Mr. LeSourd: If your Honor please, here we are simply by this means trying to avoid the Court's [4090] ruling. It is simply taking time of this case unnecessarily. If it is the word "auditor," Mr. Griffin is interested in, I again call the Court's attention to the fact that there was testimony on direct examination of this witness indicating he used "accountant" and "auditor" interchangeably through these years. We are wasting time in this procedure.

The Court: Well, Mr. Griffin desires to make a record, and the Court will not in any way——

Q. (By Mr. Griffin interposing): Your answer is "yes" to that, Mr. Taylor? A. Yes, sir.

Mr. Griffin: I offer A-86 for identification.

Mr. LeSourd: Same objection.

The Court: Mr. Moriarty, you have the same objection?

Mr. Moriarty: Yes, we have the same objection.

The Court: The ruling will be the same, and it will be rejected on the same showing.

Mr. Griffin: Will you mark this for identification?

(Testimony of L. Hicks Taylor.)

The Clerk: Defendants' Exhibit A-87 marked for identification.

(Defendants' Exhibit No. [4091] A-87 marked for identification.)

Q. (By Mr. Griffin) Mr. Taylor, handing you Exhibit A-87 for identification, I will ask you if this is a Compensating Tax Return of the Issaquah Creamery Company subscribed by you over your signature May 28, 1948? That is a photostatic copy.

A. That is correct, and I signed it in the name of "auditor." I wrote it on there.

Mr. LeSourd: If your Honor please, may the record show our objection to this manner of identification of the documents?

The Court: The record may so show.

Mr. Griffin: I offer A-87.

Mr. LeSourd: Same objection.

Mr. Griffin: The reason for the duplicates is that this is Issaquah and the others were Alpine.

The Court: Same objection, and the same ruling.

Mr. Moriarty: That was 87?

Mr. Griffin: 87, yes.

Will you mark this document for identification, please?

The Clerk: Defendants' Exhibit A-88 marked [4092] for identification.

(Defendants' Exhibit No. A-88 marked for identification.)

Q. (By Mr. Griffin): Mr. Taylor, were you the auditor for the Issaquah Creamery Company?

A. I was not.

(Testimony of L. Hicks Taylor.)

Q. Handing you Exhibit A-88, I will ask you if this is a photostatic copy of a letter on your letterhead written by you?

A. This is a photostatic copy of a letterhead of L. Hicks Taylor and Company, requesting an extension of 30—

Mr. LeSourd: (Interposing) Just a moment, Mr. Taylor. This is merely a matter of identification.

A. Yes.

Q. (By Mr. Griffin): Your signature, Mr. Taylor?

A. Yes.

Mr. LeSourd: Same objection.

Mr. Moriarty: Same objection.

The Court: May I see it?

(Whereupon, document was handed to the Court.)

The Clerk: Defendants' Exhibit A-89 marked for [4093] identification.

(Defendants' Exhibit No. A-89 marked for identification.)

The Court: I feel the Court should ask a question of the witness:

Mr. Taylor, in handling the tax matters for Mr. Forster, did you execute various forms and designate yourself as auditor?

The Witness: As a rule, I referred to them that way in State returns, yes.

The Court: You designated yourself "auditor"?

The Witness: Just a signature.

I could have put "secretary" or "treasurer" or



(Testimony of L. Hicks Taylor.)

anything else on them. It was merely a habit of following out with the forms.

The Court: You did designate yourself "auditor"?

The Witness: I signed some of them there, yes.

The Court: Objection sustained.

Mr. Griffin: Sir?

Mr. LeSourd: I didn't hear.

The Court: I will sustain objection to the document.

Q. (By Mr. Griffin): Mr. Taylor, handing you Exhibit A-89 for identification, [4094] is that your signature?

A. It seems to be the carbon copy with my signature inscribed through the carbon.

Q. You dictated or——

A. (Interposing) I wrote the letter.

Mr. Griffin: Mr. LeSourd?

(Whereupon, document was handed to Mr. LeSourd by Mr. Griffin.)

Mr. LeSourd: Same objection, your Honor.

The Court: I am inclined to overrule the objection on this.

Mr. Moriarty: The Government made no objection to that letter.

Mr. LeSourd: May I ask your Honor if the admission is limited to the point we are on now, the question of the use of the word "auditor"? Otherwise, I would object to its relevancy. It is in 1942.

(Testimony of L. Hicks Taylor.)

The Court: Yes, it is on that only.

Mr. LeSourd: It is limited to that, very well.

Mr. Griffin: May I read the exhibit, your Honor?

The Court: You may.

Mr. Griffin: Dated December 18, 1942, to Mr. T. M. Jenner, "In re Penalty Assessment, Alpine Dairy, Issaquah Creamery Company," with code numbers and some dates. [4095]

Mr. Moriarty: The date?

Mr. Griffin: The letter is December 18, 1942, but it has code numbers, and other dates on it.

"The writer is Auditor and Secretary of the Issaquah Creamery Company and Alpine Dairy, have always prepared the Excise Tax Returns for them, the returns for July and August were not sent in on time because it was necessary for me to file a great many papers for the Dairy in the case for the O.P.A. on the School Milk Delivery. This company does not have to take advantage of delay for any financial reason, it being just one of those things that happen once in a while, and I feel the request for relief from penalty is not asking too much from a taxpayer who contributes a large sum each period, especially when this is about the first offense. I talked with Mr. Carney about the matter, and paid the period September and October a month before it was due to offset any loss to the State in the delay.

"It has always been my opinion that the Tax Commission were not interested in penalties, where a reasonable explanation of the delinquency is sub-

(Testimony of L. Hicks Taylor.)

mitted, and I believe that you feel the same way about it.

“Thanking you in advance for the many courtesies you have shown, and hope you can persuade the Commission to withdraw the penalty. I am,

Yours very truly,

L. Hicks Taylor.”

Q. (By Mr. Griffin): Mr. Taylor, why did you represent to Mr. T. M. Jenner, Chairman of the Tax Commission of the State of Washington that you were the auditor of the Issaquah Creamery Company and the Alpine Dairy?

A. I was making an effort in Mr. Forster's behalf to save him penalties.

Q. As a matter of fact, you did prepare all the Excise Tax Returns—that is, the business tax returns—for Alpine and Issaquah, didn't you?

Mr. LeSourd: Objected to as irrelevant and immaterial and improper cross-examination.

The Court: Objection overruled.

A. In my assignment of holding them and working the general ledger, it was very much simpler for me to prepare the returns and I agreed to do it during that period. [4097]

Q. (By Mr. Griffin): You did it during the entire period?

A. I certainly did, every one of them.

Q. And you wanted to—in this letter, you designated yourself as Auditor, you say, because you wanted to save Mr. Forster a penalty, is that correct?

(Testimony of L. Hicks Taylor.)

A. Not necessarily, just an habitual statement.

Q. Using that term "habitual," sir, I will ask you if you did not subject Issaquah Creamery and Hans Forster to penalty after penalty from the State of Washington because of your neglect in filing income—in filing Excise Tax Returns on time?

Mr. LeSourd: Objected to as irrelevant and immaterial, and not proper cross.

The Court: Objection sustained.

Mr. Griffin: Now, in the light of the witness's answer, I have to follow that one on through, if the Court please.

Will you mark these letters and notices as one exhibit?

The Clerk: Defendants' Exhibit A-90 marked for identification.

(Defendants' Exhibit No. A-90 marked for identification.) [4098]

Q. (By Mr. Griffin): Handing you Exhibit A-90 for identification, Mr. Taylor, I will ask you if that file, for short for identification, are not letters from you to the State of Washington Excise Tax Division, and from that Division to you, and include the penalties assessed from time to time as therein indicated because of your failure to file the returns on time?

Mr. LeSourd: If your Honor please, I will object to the form of that question, and ask that the remarks of Counsel in it be stricken, and the Jury



(Testimony of L. Hicks Taylor.)

be instructed to disregard them. It is not a proper part of an identification question, and if this document is irrelevant and immaterial, as I suspect it is, it almost puts upon this Defendant the necessity of meeting irrelevant and immaterial matters, just by the form of the question.

Mr. Griffin: I used the form, if the Court please, only to shorten the witness's answer in identification.

The Court: I might advise the Jury that the procedure is—here is, for the purpose of identifying a document, which may or may not become evidence. Any question put by counsel in that connection is not to be considered by you as any evidence at all, and with that comment, the Court will not strike the answer—I mean, the question.

(Whereupon, there was a brief pause.)

The Witness: May I ask what the question was, please?

The Court: The question is whether you recognize those documents and know what they are.

The Witness: May I ask, is this just to identify them and not to comment on them?

The Court: That is the sole purpose.

A. Part of the documents have come from my office, and part of them have probably been made in the Issaquah office, and part of them were mailed to Issaquah and part were mailed to me. There is a copy here in my pencil writing, but these evidently became property in my files. Part of the letters were written by me.



(Testimony of L. Hicks Taylor.)

The Court: In other words, you have seen these documents at one time or another?

The Witness: They all came from my files that I deposited at Issaquah.

Q. (By Mr. Griffin): And that was the first time when you made that deposit in Issaquah, in April, 1950, that any of these Excise Tax Returns, or the accompanying documents, or the penalty assessments, were ever in the possession of Hans Forster or the Issaquah Creamery or the Alpine Dairy, wasn't it? [4100]

Mr. LeSourd: Well, your Honor, I will object to this as irrelevant and immaterial and improper cross-examination, and again object to the form of the question.

The Court: The Court will overrule the objection.

A. That appears to be conjecture. Many of those records passed through the hands of Issaquah Creamery and Alpine Dairy before they came into my possession.

Q. (By Mr. Griffin): If any of them did, you wrote the Department in question to thereafter send them direct to you, didn't you?

A. That is possible, yes.

Q. Not only possible, but is a fact, isn't it?

A. It is possible.

Q. So that you kept in your office in Seattle these copies of the Excise Tax Returns that you made out?

A. Certainly, they were part of my work.

(Testimony of L. Hicks Taylor.)

Q. And you kept in your office in Seattle the copies of the Income Tax Returns that you made out?

A. That is correct.

Q. Mr. Forster obtained his copy, his wife's copy, Issaquah Creamery, Alpine Dairy copies of the income tax returns for all the years they had been made [4101] in April, 1950, just before you went to McNeil Island and took them out to Issaquah Creamery, didn't he, for the first time?

A. Mr. Griffin, my office had a special place for all Issaquah and Alpine files, and it was continuously and always open to Mr. Forster's inspection at any time he cared to see any of the papers. He could have them at any time.

Mr. Griffin: May I have the question read, if the Court please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

The Court: You should answer that "yes" or "no," and then make such explanation as you see fit, Mr. Taylor.

A. (Continuing) Yes; he received them then because they were all well arranged and filed and placed in position so that anyone could go through them year by year.

Mr. Griffin: I offer A-70.

The Clerk: A-90.

Mr. Griffin: A-90, pardon me, which is that group just identified.

Mr. LeSourd: I would like to see them. [4102]

(Testimony of L. Hicks Taylor.)

Mr. Griffin: Pardon me. I simply anticipated your objection and the ruling, is all.

(Whereupon, there was a brief pause.)

The Clerk: Do you have A-64?

Mr. Patten: No.

The Court: Is that the one, Mr. Griffin, you have marked on the examination of another witness?

Mr. Griffin: Yes, sir.

The Clerk: I have it.

(Whereupon, document was handed to Mr. Griffin by the Clerk.)

Mr. Griffin: May I proceed while they look at the other?

The Court: Yes, you may.

Q. (By Mr. Griffin): Mr. Taylor, when was it that you first met Hans Forster; what year?

A. It is my recollection, in 1928 or 1929.

Q. And at that time, where was Mr. Forster residing? A. In Issaquah.

Q. And was he in any business?

A. He was associated with Mr. Peters in the Issaquah Creamery Company.

Q. Were you the accountant at that time for [4103] the—were you Auditor at that time for the Overlake Golf Club?

Mr. LeSourd: Objected to as irrelevant and immaterial, and improper cross-examination.

The Court: I take it it is preliminary?

Mr. Griffin: Yes, sir.

The Court: Objection overruled.

(Testimony of L. Hicks Taylor.)

A. I was performing a service for the Overlake Golf Club. I was not the auditor.

Q. Were you at that time performing any service for the Issaquah Creamery?

A. I was performing service for Mr. Peters for the Issaquah Creamery, yes.

Q. And you continued in that service, did you, until Mr. Forster acquired Mr. Peters' interests and the bank's interest in the Issaquah Creamery?

A. I continued with them right through this whole period.

Q. What was the occasion of your continuing?

A. Just continued, I guess; nobody discharged me.

Q. Nobody; as a matter of fact, that is the way it was, wasn't it? You were there performing the services you were then performing from an accounting standpoint, and you weren't discharged, and you weren't employed; [4104] you continued right on for the years that followed; isn't that the way it happened?

A. Well, I rather think I was employed when it started.

Q. I am not speaking about your employment, I am speaking about the physical thing that occurred between you and Mr. Forster at that time; you just continued right along without anything being said about it, isn't that correct?

A. Yes.

Q. And you continued performing the same services for Issaquah Creamery then under the propri-

(Testimony of L. Hicks Taylor.)

etorship and ownership of Mr. Forster as you performed for the Issaquah Creamery under Mr. Peters; correct?      A. Up until 1940, yes.

Q. Did you make—let's deal with this matter of an audit for a moment. You have used the term a great many times. What is an audit, as you use that term?

A. Would you like me to explain the scope of an audit?

Q. I want you to explain your definition, or scope, whatever it may be, of an audit as that term has been used by you from the witness stand.

A. There is quite a distinction between the work [4105] that I performed, and an audit.

Q. I am not asking you anything about that. I am asking you what you mean by the term "audit." as you have used it from the witness stand in this case.

A. An audit is generally a certified report of the condition of a concern, and there is a definite letter attached to every audit, stating the scope in which it followed.

Q. I hand you Exhibit A-64 for identification and I will ask you what that is?

A. This is an audit that I made of the books in 1932.

Q. What books?

A. The books of the Issaquah Creamery. The original request for this audit was made by Mr. Peters.

Mr. Griffin: I offer A-64 for identification.



(Testimony of L. Hicks Taylor.)

Mr. LeSourd: In view of the testimony, your Honor, at this time I will withdraw the objection previously made to this exhibit.

Mr. Moriarty: The Government has no objection.

The Court: Exhibit A-64 may be admitted.

(Defendants' Exhibit No. A-64 admitted in evidence.)

Mr. Griffin: May I read the introduction and advise the Jury what the cover sheets of the audit [4106] are?

The Court: You may.

Mr. Griffin: "Mr. Hans Forster, President, Issaquah Creamery Company, Issaquah, Washington.

"Dear Sir:

"Pursuant to your request, an audit report has been prepared from your books and records. Cash and Banks, were reconciled with the bank statements but certificates were not requested from the bank."

Q. (By Mr. Griffin): What do you mean by that, Mr. Taylor, that the cash in the bank was reconciled?

A. As a rule, in the scope of an audit, the bank will give you a letter as to the final balance at the close of a year.

Q. But you reconciled the cash shown on the books of the Issaquah Creamery Company with the bank, with the amount of money in the bank, didn't you? A. As of December 31, 1932.

Q. You did that?

A. I did that, yes, sir.

(Testimony of L. Hicks Taylor.)

Q. Accounts receivable——

Mr. Griffin: Strike that. [4107]

Q. (By Mr. Griffin continuing): “Notes receivable were verified and found to agree with the records.”

What did you mean by that, Mr. Taylor?

A. The note account shown in the ledger agreed with the distribution of the notes.

Q. That is, you checked and verified?

A. As far as I remember, yes.

I state so.

Q. “Accounts receivable were reconciled and all accounts considered doubtful and uncollectible were set up in reserve for bad and doubtful accounts.”

What do you mean that the “accounts receivable were reconciled?”

A. The detail of the list of the various accounts was proven to the total shown in the control of the accounts receivable ledger.

Q. “Inventories were accepted as presented, but were verified as to accuracy of extension.”

What do you mean by that?

A. That is right, the inventory calculation was laid on the test, and I tested the calculation as to cost against correctness. I took one here and there to determine that they were reasonably correct.

Q. “Milk routes.” This item was arrived at by taking the actual cost of development or purchase, [4108] whichever the case may have been, which, according to authority, a good milk route is valued

(Testimony of L. Hicks Taylor.)

at \$3,000 so that our routes as shown would have been very reasonable.

What do you mean by "our routes"?

A. The routes as shown on the ledger page as to the value set up appeared to be reasonable.

Q. Who set up that value?

A. That was on the books.

Q. Who set up the value?

A. I wasn't doing the detail bookkeeping.

Q. Who set up the books at Issaquah Creamery?

A. The books were set up before I started working there.

Q. And when did you start working there?

A. In 1928.

Q. "Equipment." Shows the cost of all equipment, in the opening of the books the appraisal was taken, General Appraisal Company made up the same.

"Reserve for depreciation. All equipment has been depreciated as near as possible to the Federal Regulations."

What do you mean by that?

A. The Federal Government, or the Treasury Department, publishes a form of depreciation, or a suggested depreciation rate of various types of equipment, [4109] and in making this analysis, I looked at the depreciation schedule to see as much as possible that the general rates were being carried out.

Q. "Notes, accounts and cream check payable

(Testimony of L. Hicks Taylor.)

accounts. Have been checked to the books and found to be in balance. A schedule is hereby attached."

By that you mean that you checked and reconciled the note accounts and cream check payable accounts with the books, didn't you?

A. That is what the report shows.

Q. "Creamery Package Company. They hold six contracts amounting to \$2,602.55, and an open account of \$9,233.24, a total of \$11,875.79. The contracts appear to be well current, the open account was increased by the management with the understanding that it would be paid as we could."

What do you mean by "paid as we could"?

A. I was secretary of the corporation.

Q. You were secretary? A. Yes.

Q. Not acting secretary, you were secretary?

A. I was acting secretary, yes. And had a qualifying share, no ownership.

Q. "Northwest Condensery Company. Balance appears on records as \$6,825.00, which is correct."

How did you determine that?

A. By the record.

Q. "Contracts payable. Truck, stoker, and Frigidaire contracts which are paid up to current date. See schedule."

"Miscellaneous. Notes in the amount of \$2,900 with the Bank are secured by King County warrants in the amount of \$3,014.19 which is shown in Accounts Receivable.

"Conclusion. Surplus account was increased in the amount of \$2,632.38 to enter Real Estate that

(Testimony of L. Hicks Taylor.)

was not entered on the books when they were opened. The assets of \$102,909.12 less the liabilities of \$52,309.80 leaving a capital and surplus of \$50,-599.32 in my opinion reflects the true worth of your business as of December 31, 1932."

And you signed "L. Hicks Taylor, Public Accountant," didn't you?

A. Yes. May I see that document for a moment?

The Court: Will this be an agreeable time for a recess?

Mr. Griffin: Yes, your Honor.

The Court: Ladies and Gentlemen of the Jury: We will now take the mid-morning recess, and [4111] the Court calls your attention to the admonition given on similar occasions and asks that you heed it on this occasion.

(Whereupon, the Jury retired from the court room.)

The Court: You may step down.

The Witness: Thank you.

(Whereupon, the witness withdrew from the witness chair.)

The Court: Before we recess, A-91, is there any objection?

The Clerk: A-90.

The Court: Yes, A-90.

Mr. Moriarty: We are examining it at this time, your Honor.

The Court: You are examining it?

Mr. Moriarty: Yes, we just received it.



(Testimony of L. Hicks Taylor.)

The Court: All right, we will recess for fifteen minutes.

(Whereupon, at 10:32 o'clock a.m. a recess was had in the within-entitled and numbered cause until 10:45 o'clock a.m. April 16, 1954, at which time, Counsel and Defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: Before we call the Jury, I might [4112] advise Counsel I have just filed an original and a copy of a preliminary draft of the proposed instructions.

Now, in filing them, I don't want to indicate that I will not consider other instructions.

There are, particularly as requested by Defendants there are, several requested by Mr. Taylor and Mr. Forster—yes, Mr. Forster—which I will hear argument on, and particularly I might, if you are interested in knowing which ones I would like to hear argument on, I might tell you at this time.

In regard to Mr. Forster, I will hear argument on requested 15, 21 and 24, which I take it involve the same matter. 22——

Mr. Moriarty: 13, 21——

The Court: 21 and 24 will involve, I think, the same theory.

22, the last sentence. I think I have incorporated the first, and 25.

Both for and in response.

And, in Mr. Taylor's requested, 22, 25, 28, 29, 30 and alternates, and 34.

(Testimony of L. Hicks Taylor.)

So that I will hear discussion on those at such time as is proper.

I feel in the main that the Government's requests are covered. [4113]

Mr. Moriarty: When you said alternate 34, that means they have——

The Court: (Interposing) I think on 30, there were four or five alternates to it.

Mr. Moriarty: At least four or five.

The Court: In regard to the motion this morning, Mr. Griffin, I don't know that the Court acted on it. I will now deny it.

Mr. Griffin: Very well.

The Court: In regard to discussion on it, today or Tuesday?

Mr. Griffin: I think Tuesday would be better to do it. All at once. There may be another one in regard to this today.

The Court: All right.

Mr. Keesling, I meant to also state, you not having filed any requests, any, of course, that you may offer the Court will consider. You might file those you think are not covered.

Mr. Keesling: Yes.

The Court: You may call the jury.

(Whereupon, the jury was returned to the court room.)

The Court: You may be seated.

It is stipulated that the jury and all defendants are present in the court room? [4114]

Mr. Moriarty: Yes, your Honor.

(Testimony of L. Hicks Taylor.)

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Your Honor asked, on A-90, if we have examined A-90 and we have in the recess examined it. I think Mr. Griffin offered Exhibit A-90.

Mr. Griffin: Yes.

Mr. Moriarty: We have no objection to the exhibit.

Mr. Le Sourd: We will make the same objection, your Honor. It is irrelevant and immaterial, and improper cross-examination.

Mr. Griffin: Perhaps your Honor would like to look at that?

The Court: I think I will look at these, if I may.

Mr. Griffin: Yes, sir; and reserve ruling on it?

The Court: And reserve ruling on it.

Mr. Griffin: That is offered for a different purpose.

The Court: Yes, I understand it is for a different purpose. I recall, in connection with this case, are documents which were identified and not called to the attention of the Defendant Forster until 1950, under the testimony. [4115]

Mr. Griffin: Yes.

Mr. LeSourd: No, your Honor. Many of these documents, the witness stated, were correspondence with the Issaquah office, rather than himself, but finally came into his files. Actually, there is a serious problem of identification on many of them, but he stated that they were all in his file, eventually.

(Testimony of L. Hicks Taylor.)

The Court: I will look them over, but if there is occasion for argument or discussion, the Court will give you an opportunity.

Mr. LeSourd: Yes, sir.

Mr. Griffin: I had finished reading the first two pages of Exhibit A-64.

Q. (By Mr. Griffin): Now, those first two pages that I read, Mr. Taylor, are what you referred to as the certificate to your audit, is that right?

A. Audit report, yes.

Q. The first sheet is a balance sheet of the Issaquah Creamery Company, showing assets broken down and liabilities broken down, and referring to that sheet, Mr. Taylor, which is the third sheet of Exhibit A-64 entitled "Balance Sheet," you prepared once each month from that time of December 31, 1932, all through and including at least December 31, 1949, a balance sheet [4116] comparable as to form and substance of sheet 3 to Exhibit A-64, did you not?

A. Yes, from the general ledger, I prepared it.

Q. And delivered such—when I say you prepared it, you prepared and delivered such a sheet generally once each month, sometimes omitting the month of December?

A. No month was ever omitted.

Q. All right, once each month to Mr. Forster?

A. Yes, without audit.

The Court: Is that question through 1939?

Mr. Griffin: 1949.

The Court: 1949?

(Testimony of L. Hicks Taylor.)

Mr. Griffin: 1949.

Q. (By Mr. Griffin): And did you submit any—you continued forth through 1949 during the first two months, did you not, of 1950?

A. It is my recollection that I posted the books for the two months of 1950.

Q. The fourth page is entitled "Issaquah Creamery Company, Profit and Loss, December 31, 1932" and broken down into sales, inventory, gross profits, operating expenses and eventually net profit, and including on that sheet a percentage breakdown; is that [4117] correct?

A. That is what it displays, yes.

Q. You continued from the time that you prepared A-64 to submit a comparable sheet once each month of profit and loss of the Issaquah Creamery Company to Mr. Forster, did you not, eliminating at some point along the line the percentage breakdown that you had? A. Yes.

Q. The next heading is Depreciation Schedule.

Who prepared the Depreciation Schedule, Mr. Taylor? That is composed of one sheet.

A. It is my recollection that I performed this service.

Q. The next are comparative balance sheets for January and December, 1932.

From time to time, not necessarily monthly, but from time to time thereafter, you prepared and delivered to Mr. Forster, did you not, comparative balance sheets for various months or periods?

A. It is possible. I don't recollect exactly.



(Testimony of L. Hicks Taylor.)

Q. The next heading are Accounts Payable, consisting of two pages. Did you prepare those pages of Accounts Payable, with the eventual total?

A. Yes, I prepared these with this audit.

Q. From what source did you obtain the information [4118] of the Accounts Payable?

A. Mrs. Eck, or Miss Neukirchen, and I, checked out all the accounts payable at the office.

Q. How do you mean you checked out all the accounts payable?

A. We went through all the bills and invoices and verified them.

Q. And then, next, is headed, one sheet, notes receivable, December 31, 1932, listing separately in amounts. Did you likewise check through at the Issaquah office the documents from which you obtained the information of the various payees of notes payable and the amounts due?

A. As I recollect, the notes themselves were in the office, and that was the balance showing at that time on the notes which agreed with the general ledger.

Q. You checked them?

A. Yes, we checked them.

Q. And the next sheet is Notes and Contracts Payable, and the same is true, I assume, Mr. Taylor, of that breakdown?

A. Yes.

Q. And the next sheet are Accounts Receivable running for five sheets, a breakdown of each account, is it not—that is, money due from whom and the amount? [4119]

(Testimony of L. Hicks Taylor.)

A. That is a list of the various individual debtors to the Issaquah Creamery Company.

Q. From what source did you obtain that?

A. From an accounts receivable ledger.

Q. Did you check them? A. I did.

Q. Did you find them correct with the alterations that you have made, assuming that those are alterations? A. That is probably after.

Q. I am referring to pencil notations. And then a sheet, route drivers' accounts at the top, and a recapitulation at the bottom of Accounts Receivable, Route Accounts, Bad and Doubtful accounts, and a total?

A. That is a recapitulation, yes.

Q. And the next one, notes and accounts charged with a breakdown of the name of the individual and the amounts. From what source did you——

(Whereupon, the witness pointed to the exhibit.)

Q. (Continuing) "Notes and accounts charged to profit and loss," thank you.

A. That is correct.

Q. From what source did you obtain the information? Is that a write-off?

A. That was made to profit and loss, yes.

Q. From what source did you obtain the information [4120] to write off those notes?

A. From the accounts receivable ledger and the note records.

Q. And then the next page is Accounts Receivable Recapitulation?

(Testimony of L. Hicks Taylor.)

A. (Witness nodded in the affirmative.)

Q. And the next "Bad and Doubtful Accounts, Depot," D-e-p-o-t (spelling)? A. Depot.

Q. Broken down; I assume you obtained that same information from the records?

A. That is correct, from the records.

Q. And the last page is simply a continuation of the bad and doubtful accounts, depot?

A. That is what it appears to be, yes.

Q. So, as of December 31, 1932, at the request of Hans Forster, President, Issaquah Creamery Company, you prepared this audit, A-64?

A. That was prepared sometime early in 1933.

Q. And you continued thereafter to prepare audit reports, did you not, for Mr. Forster and the Issaquah Creamery?

A. I do not recollect that I did continue thereafter.

Mr. Griffin: Will you mark this for identification? [4121]

The Clerk: Defendants' Exhibit No. A-91 marked for identification.

(Defendants' Exhibit No. A-91 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-91 for identification, I will ask you what that is?

A. Would you like me to describe this sheet?

Q. Yes, if you will, please. First, you understand, it is for identification; it is not in evidence.

A. This is a document I prepared.

Q. By "document," it is a ten-year period, 1938

(Testimony of L. Hicks Taylor.)

to 1947, document of Alpine Dairy operations, is it not?

A. It is the profit and loss for those periods.

Q. Including a balance sheet of Apex Farms, December 31, 1947? A. That is right.

Q. And comparative profit and loss statement, Apex Farms, for the years 1946 and '7?

A. That is correct.

Q. And you enclosed it in that folder for delivery to Mr. Forster, was it?

A. This was apparently taken from my files.

The Court: The question is, did you?

The Witness: No.

Mr. Griffin: I offer A-91.

Mr. LeSourd: We have no objection, your Honor.

Mr. Moriarty: We have no objection.

The Court: A-91 may be admitted.

(Defendants' Exhibit No. A-91 admitted in evidence.)

Q. (By Mr. Griffin): As I understand you to say, sir, you did not enclose this statement in the jacket, in this folder?

A. Those papers were returned to me, and I enclosed them in that jacket to remain in my files.

Q. When did you enclose them in this jacket?

A. At the time they were returned to me.

Q. When was that?

A. Probably in 1948, sometime.

Q. The jacket referred to is, you say, your files?

A. That is correct; that is my cover, one of mine that I had in my office.

(Testimony of L. Hicks Taylor.)

Q. And what is meant by "Auditor's Report"?

A. When I made a complete audit of any set of books, or small set of books, I used that cover.

Q. How many complete audits have you ever made, Mr. Taylor?      A. Not extensively.

Q. From what source did you obtain the information for Alpine Dairy operations, ten year period, 1938 to 1947?

A. Might I have the schedule just to refresh——

Q. (Interposing) This one?

A. Might I have it, just to look at it?

Q. Surely.

A. To the best of my recollection, these figures shown here were taken from the profit and loss statement shown on the individual income tax return of Mr. Forster showing the Alpine Dairy operations, except the last one of February 28th, and that was probably taken from my work sheet.

Q. Did I understand you correctly that you used the income tax returns prepared by you—I am not sure that I did—that you used the income tax returns of Mr. Forster as prepared by you to give Mr. Forster a ten-year period picturization of the Alpine Dairy operations?

A. On each tax return, I usually prepared a profit and loss statement and just took those profit and loss statements and assembled them in that ten-year [4124] period.

Q. Nothing, then—insofar as Exhibit A-91 is concerned, of this ten-year picturization of the Al-



(Testimony of L. Hicks Taylor.)

pine Dairy operations, nothing at all to indicate whether it is correct or not?

A. It is taken from the tax returns, the profit and loss statements shown.

Q. When did Alpine cease to be a part of Issaquah Creamery, what year? A. 1940.

Q. So then you didn't take the years 1938 and 1939 from Mr. Forster's tax returns, did you?

A. It is possible that I took them from the Issaquah Creamery work sheets for those first two years, but the Alpine Dairy would have a profit and loss statement separate from the Issaquah Creamery.

Mr. Griffin: Will you mark this?

The Clerk: Defendants' Exhibit A-92 marked for identification.

(Defendants' Exhibit A-92 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-92 for identification, what is that?

A. That is a balance sheet and profit and loss [4125] statement of the Issaquah Creamery Company, Incorporated, as of December 31, 1933.

Q. Prepared by you? A. Yes.

Mr. Moriarty: 1933?

Mr. Griffin: 1933. The last one was 1932.

Mr. Moriarty: No objection.

Mr. LeSourd: If your Honor please, this document, I completely fail to see any relevance or materiality. I have examined these other documents he was offering on this question of audit. This one

(Testimony of L. Hicks Taylor.)

has nothing of any kind. It is similar in form to the balance sheets and profit and loss statements which were made for the years in question, which had no authorization or signature or letter attached, or anything else.

I fail to see the purpose of it, and object to it on that ground, your Honor.

The Court: Well, I take it it is offered to show the nature of the work being done in a period which may have had some bearing on the——

Mr. Griffin: (Interposing) On the latter period.

The Court: (Continuing) ——on what work was done later.

I would admit it conditionally, and if [4126] it would appear afterward as not material——

Mr. LeSourd: (Interposing) I have no objection as thus restricted, but, if admitted generally, it is admitted for the purpose of bringing some issue up in the year 1933 and it would have nothing to do with this case.

The Court: Well, I think we will overrule objection, and if some testimony comes in and upon some ground it may be properly moved against, you may make a motion.

Mr. LeSourd: Very well.

The Court: It may be admitted.

(Defendants' Exhibit A-92 admitted in evidence.)

Mr. Griffin: I will be asking questions which may reflect on your Honor's ruling.

Q. (By Mr. Griffin): A-92, the Issaquah Cream-

(Testimony of L. Hicks Taylor.)

ery Company balance sheet for December 31, 1933, and profit and loss statement December 31, 1933, are they comparable statements to that which you just testified to for the year 1932 in Exhibit A-64; is that correct?

Mr. LeSourd: Objected to. One is an audit, and the other is not.

The Court: It is up to the witness to answer the question. If the witness desires to see it, he may.

The Witness: Is there a question?

Mr. Griffin: The question is:

Q. (By Mr. Griffin continuing): The balance sheet and profit and loss sheet in Exhibit—what is it, A-91?—A-92, are comparable to the balance sheet and profit and loss sheet shown in A-64?

A. They are comparable in form only.

Q. In A-64, under fixed liabilities, what is this item of "Hans Forster, \$13,526"?

Mr. LeSourd: Objected to as irrelevant and immaterial, and not proper cross-examination.

The Court: I think it is preliminary. The Court will overrule objection at this time.

I didn't get the question as to the figures, Mr. Griffin.

Mr. LeSourd: I don't see where this is preliminary. He is going back into some figures back in 1932 and 1933. As far as I can see, it is utterly immaterial to the case.

Mr. Griffin: Thirteen thousand——

The Court: (Interposing) It may be. I don't know.

(Testimony of L. Hicks Taylor.)

Mr. Griffin: \$13,526. [4128]

Q. (By Mr. Griffin continuing): What is that item, Mr. Taylor?

The Court: That is A-64, now?

Mr. Griffin: Yes, your Honor.

The Witness: Yes.

A. I did not comment on it. From my recollection, it is possibly undrawn salary, and might be some contribution, too.

Q. (By Mr. Griffin): In Exhibit A-92, what is the item under "Liabilities," "Hans Forster \$20,509.50"?

Mr. LeSourd: Same objection, your Honor.

The Court: Well, I think the Court will overrule the objection.

A. It would be my recollection it would be either the undrawn salary, or maybe some contribution of money to the company.

The Court: I wonder if it wouldn't be a little clearer if we had a fuller statement of what that item is and where it is carried, Mr. Griffin?

Mr. Griffin: You mean the exhibit?

The Court: In the exhibit, yes.

Mr. Griffin: In A-64, it is an item under Liabilities, sub-item "fixed liabilities," the last item under fixed liabilities, of which there are four, and [4129] Hans Forster is under fixed liabilities.

The same is true as to Exhibit A-92, except there are two items under fixed liabilities; one is Hans Forster.

Q. (By Mr. Griffin): From what book or record

(Testimony of L. Hicks Taylor.)

in either 1930—at the end of 1932, or the end of 1933, would you pick up for entry to these balance sheets these items showing that Issaquah Creamery owed Hans Forster so many dollars and so many cents?

A. The bookkeeper would enter Mr. Forster's \$2,000 a month salary to the debit, or to the charge, of management salary, and credit Mr. Hans Forster with \$2,000. Then, whatever he withdrew would be charged against that account.

Q. And that was an account where anything else he withdrew in personal items would be charged, would it not?

A. That would be possible, yes.

Q. And Mr. Forster's salary in 1932 was \$2,000 a month?

A. As I recollect, yes.

Q. Which he did not draw?

A. Did not always draw all of it, no.

Mr. Griffin: Will you mark this document for [4130] identification?

The Clerk: Defendants' Exhibit A-93 marked for identification.

(Defendants' Exhibit A-93 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-93 for identification, what is that document, Mr. Taylor?

A. This is a balance sheet and profit and loss statement and a comparative increase and decrease of balance sheet items, and I have listed the notes



(Testimony of L. Hicks Taylor.)

receivable, accounts receivable, and contracts payable in conjunction with it.

Mr. Griffin: That is for the year ending December 31, 1934.

Mr. Moriarty: 1934, Mr. Griffin?

Mr. Griffin: Yes.

Mr. Moriarty: We have no objection, if the Court please.

Mr. LeSourd: If the Court please, we have no objection to A-93 if limited to show the work Mr. Taylor was doing during this period, which I assume is the purpose.

The Court: It may be introduced, and if used for any particular purpose otherwise, you will have to [4131] make objection as we proceed.

Mr. LeSourd: Yes.

The Court: A-93 will be admitted.

(Defendants' Exhibit A-93 admitted in evidence.)

Q. (By Mr. Griffin): Now, Mr. Taylor, I wish you would look at Exhibit A-92, under accounts receivable, for December 31, 1933, and Exhibit A-93, your comparative statement of accounts receivable, for the same date, and I will ask you if your balance sheet of A-92 does not show accounts receivable, \$836.96—\$18,360.96?

Mr. LeSourd: Is that the end of the question?

Mr. Griffin: That is the end of the first question.

Mr. LeSourd: I will object on the ground, your Honor, it is irrelevant and immaterial and improper cross-examination.

(Testimony of L. Hicks Taylor.)

The Court: I take it again it is preliminary. It may not be. The Court will have to overrule the objection, and consider a motion to strike, if there is one.

Q. (By Mr. Griffin continuing) The item is \$18,360.96, is that correct? [4132]

A. I don't see any figure that compares with that anywhere.

(Whereupon, Mr. Griffin indicated a place in the exhibit.)

Q. The accounts receivable, Mr. Taylor, as shown by you in 1933 are in what amount?

A. \$20,444.00.

Q. Yes, sir; what are they for the same time, as you have made a comparative statement, in Exhibit A-92?

Mr. LeSourd: Same objection, your Honor.

Q. (By Mr. Griffin continuing): They are \$18,360.96, aren't they?

Mr. LeSourd: Just a moment. They ask two questions. A-92 and 1933 are for the same year. I am a little confused.

Mr. Griffin: I don't wonder. I will withdraw the question and get back on these exhibits.

Q. (By Mr. Griffin continuing): The year—A-92, the year 1933, the accounts receivable, you show them \$20,444, is that correct?

A. That is a combined accounts receivable, yes.

Q. In A-93 for the year 1934 in your comparative [4133] statement, you show that same item, \$18,360.96, for the year 1933, don't you?

(Testimony of L. Hicks Taylor.)

A. It is possible there was an adjustment. I don't know. I can't recollect back all that length of time and tell you.

Q. I am just asking you to look at the two documents, sir.

A. They are not comparative in any way. You can't make a comparison.

Q. Oh, you can't? A. You can't.

Mr. LeSourd: Your Honor, I would like at this time to again raise my objection and move to strike this testimony. We are getting so far afield here in comparing particular items in 1933 and 1934 we could go on for six months on this. I think it is entirely improper.

The Court: It could be. I will have to proceed here, and the Court, after we have concluded the session, next Tuesday, will consider the motion, if you wish, Mr. LeSourd. You may proceed. Objection overruled. The motion is denied at this time, subject to your urging it again, if you wish.

Q. (By Mr. Griffin): Mr. Taylor, in Exhibit A-92, for the year 1933, [4134] you have written, have you not, accounts receivable, \$20,444 as of December 31, 1933?

A. That is on the paper there, yes.

Q. In Exhibit A-93, for the year 1934, entitled Comparative Balance Sheet, January 1, 1934, which would be December 31, 1933, would it not?

Mr. LeSourd: Object to that assumption, your Honor. January 1st is not December 31st. There may be year-end adjustments.

(Testimony of L. Hicks Taylor.)

Mr. Griffin: That is correct.

Q. (By Mr. Griffin continuing): In accounting, is it not that the December 31st balance is the starting balance for January 1st?

A. It would depend upon the circumstances.

Q. Would it depend on whether you charged something off to equipment? That is what I am getting at.

Mr. LeSourd: Object to the question.

Mr. Griffin: That is the question. That is where we are leading, if the Court please.

Mr. LeSourd: Object to the question and it is irrelevant and immaterial, and improper cross-examination.

The Court: The first question was a general question. The question now is a specific question, is that correct? [4135]

Mr. Griffin: Yes, your Honor. I will withdraw both of them and start over, if I may.

Q. (By Mr. Griffin): Is the starting balance of January 1st, in accounting practice, of any year, the closing balance of December 31st of the previous year?

A. Yes, we will agree with you.

Q. All right; so that, in Exhibit A-92 the cash balance, December 31st, 1933, is \$1,023.95, isn't it?

A. That is correct.

Q. And in your comparative statement is the identical cash shown January 1, 1934?

A. That is correct.

Mr. LeSourd: If the Court please, will the rec-

(Testimony of L. Hicks Taylor.)

ord show our continuing objection to all these questions without having to raise it each time on the same ground? It is improper cross-examination and irrelevant and immaterial.

The Court: Are you addressing your objection to these specific items in these several exhibits?

Mr. LeSourd: To this line of questioning on these items back in 1933.

The Court: The record may show the objection without being specifically made. [4136]

Mr. Griffin: Yes, your Honor. Back to the question:

Q. (By Mr. Griffin): As to cash and notes receivable, those two items in your comparative statement are identical, aren't they?

A. That is correct.

Q. Your third item in Exhibit A-92 for the year 1943 is accounts receivable, \$20,444?

A. That is correct.

Q. The accounts receivable item in Exhibit A-93 is what?

A. It is \$5,426.00 and \$12,934.96 on a schedule that is completely foreign from this. They are not comparative in any way. You cannot compare this statement with that statement, because they are not made out similar, and you must have statements of a similar nature to check back and forth.

Q. I thought——

A. (Interposing) No, they are not the same. This is a balance sheet. This is a comparative figure. There may be adjustment.



(Testimony of L. Hicks Taylor.)

Q. By that——

A. (Interposing) I mean that the two cannot be compared. You must have this same type of a statement in [4137] both periods to compare them.

Q. A-93——

A. (Interposing) That was a comparative statement. This is not. This is a straight balance sheet with all the accumulated accounts receivable shown in one item.

Q. You supplied Exhibit A-93 to Hans Forster so that he could compare the balance sheet of 1933 with the balance sheet of 1934, didn't you?

A. Mr. Griffin, you have heard testimony here of Mr. Beadon Hall, have you not, and this was prepared at the special request of Mr. Beadon Hall for the bank at Issaquah.

Q. Delivered to Mr. Forster?

The Court: When you say "this," you are speaking of which one?

The Witness: You have on Exhibit A-93 there what we call a comparative balance sheet showing the increase and decrease of assets during the year at the closing of the year. Here we have just the balance sheet that shows a total of all accounts receivable. It is not the same form at all, the two.

Q. (By Mr. Griffin): Mr. Taylor, A-93 is a comparative balance sheet of Issaquah Creamery Company, headed by you, [4138] "Comparative Balance Sheet, as between January 1, 1934 and December 31, 1934," isn't it? A. That is correct.

(Testimony of L. Hicks Taylor.)

Q. The first item on that sheet of current assets is the same identical item as on A-92, cash, and the amount you have testified to, isn't it?

A. Yes, it agrees.

Q. And the second is notes receivable, and the amounts you have testified to, isn't it?

A. Yes.

Mr. Moriarty: Object to the form of the question as argumentative, if the Court please.

Mr. LeSourd: Also, your Honor, I will object.

The Court: Objection overruled.

Q. (By Mr. Griffin): And the third item, Mr. Taylor, in these two sheets are accounts receivable, aren't they?

A. There are two items of accounts receivable.

Q. You would combine them for accounts receivable, could you not?

A. There could be another account in another place that is an accounts receivable to make a comparative statement. This is an analysis of what we call accounts receivable. This is a breakdown to show increase. They are two distinct and separate statements that tell a [4139] different story.

Q. And it was a separate and different story through all these years in these statements that you were making that you were telling Hans Forster, wasn't it?

Mr. LeSourd: Object to the form of the question.

The Court: Objection sustained.

(Testimony of L. Hicks Taylor.)

Q. (By Mr. Griffin continuing): I go back to my question, sir, under your answer:

The accounts receivable for December 31, 1933, were \$20,444 as you have written it, is that correct, still?

A. That is the accumulation of the accounts receivable at the end of that year.

Q. In the comparative statement, you put down accounts receivable approximately two thousand dollars less, don't you?

A. No, there is no disagreement in the accounts receivable. If the work sheets were here, I could show you.

Q. Now, whether you had work sheets or not, before you, would you say that for the year ending 1933 you show warrants \$4,767.01?

A. Sure, it is there.

Q. And for the same identical date on your [4140] comparative statements, you show these same identical warrants, \$3,767.01, don't you?

A. Sure.

Q. Why the discrepancy between city warrants or county warrants for the same date?

A. Mister, when you have figures to work out for comparative purposes, many times you shift figures out of one account to another to determine some information you want, and that was what apparently has been done, but I cannot tell you without the records to check it back. I don't remember from 1933 whether he had two dollars or ten dollars.

(Testimony of L. Hicks Taylor.)

Q. Isn't the purpose of a set of books and of accounting not to get something that you want, but to get the facts?

Mr. LeSourd: Objected to as argumentative.

Mr. Griffin: Well——

A. Apparently, Mister——

Mr. LeSourd: Just a moment. Was there a ruling?

The Court: No, I didn't rule. It would appear to me that the question is argumentative and immaterial, is it not?

Q. (By Mr. Griffin): What is the purpose of a set of books kept by [4141] a firm or an individual?

A. To determine their condition at all times.

Q. And among other things, so that they can make a true determination of income and tax payable to the United States Government, isn't it?

A. Providing all people cooperate in the development of those books.

Q. And you have suggested a moment ago in your answer that perhaps this was done to get something that you wanted in regard to this difference in warrants.

Mr. LeSourd: Objection.

Q. (By Mr. Griffin continuing): What could you want for Hans Forster except the actual facts?

Mr. LeSourd: Object to the form of the question; an assumption of facts and argumentative.

The Court: I believe he is referring back to an answer given in explanation.

(Testimony of L. Hicks Taylor.)

Mr. Griffin: Yes, sir.

The Court: You may answer.

A. We were trying to analyze our figures for Mr. Beadon Hall.

Q. (By Mr. Griffin): The accounts payable—I suggest this first: [4142]

Mr. Moriarty: Referring to what exhibit, Mr. Griffin?

Mr. Griffin: I withdraw that question, and I am starting over.

Mr. Moriarty: What exhibit are you holding so that we will know?

Q. (By Mr. Griffin): In A-92, Mr. Taylor, Accounts Payable as prepared by you for December 31, 1933, are \$25,278.32, are they not?

A. On this particular report on Exhibit A-92, yes.

Q. And on A-93, and I understand now you say that you prepared A-93 for a banker, is that right?

A. At his request, yes.

Q. Instead of your showing the accounts payable by Issaquah Creamery Company at \$25,278.32, you showed accounts payable only of \$9,546.55, didn't you?

A. Mr. Griffin, did you——

Q. (Interposing) Is that what you show?

A. I am referring to this statement. It shows accounts payable \$9,546.55, milk drafts payable, \$7,045.61, and it shows other accounts, other contracts, that are all shown on this accounts payable to make them [4143] \$25,000.



(Testimony of L. Hicks Taylor.)

Q. Are you sure of that, are you?

A. They are in there. This was made from the books, and the ledger, and they will prove out, and if he will bring the books and ledger here, we will prove them out for you.

Q. From the books?

A. And the ledger and work sheets can be proven, every point of it.

Q. What books did you use other than your ledger?

A. I used the ledger in preparing that, yes.

Q. Did you deliver a copy of Exhibit A-93 to Mr. Forster, this comparative balance sheet?

A. It was delivered to him, and Mr. Forster and I discussed it with Mr. Beadon Hall.

Q. For the purpose of a loan, was it?

A. It was for the purpose of financing Mr. Forster through that critical period as Mr. Beadon Hall referred to.

Q. Would that account in part for the fact that the one statement delivered to the Bank, the accounts payable were \$9,546.55 and on the same date, you show accounts payable \$25,278.32?

Mr. LeSourd: Your Honor, I will object to this. The witness read from this exhibit a number of other [4144] accounts payable. One of these exhibits are broken down into separate items, and in the other, they are in a lump sum and with Counsel's presentation, it is asking an improper question or making an assumption improper to the exhibit.

The Court: Well, the Court will discontinue for

the day, and will reserve the question and the ruling.

Ladies and Gentlemen of the Jury:

We will now recess until Tuesday, at ten o'clock. The Court calls your attention again to the admonition given you on the occasion of the week-end recess, and you are to be cautious not to confer among yourselves or with anyone on the outside regarding any matters that may relate to the merits of this case, and be cautious you do not read news accounts or listen to newscasts that may relate to this case or any matters involved therein. So that, if you will, bear that caution in mind. Be cautious likewise not to make any conclusions or arrive at any conclusions in regard to the merits of this case until it is finally submitted to you for your verdict.

You will now be excused until Tuesday at ten o'clock.

(Whereupon, the Jury retired from the courtroom.) [4145]

The Court: It is stipulated the Jury have left the courtroom?

Mr. Griffin: Yes, your Honor.

The Court: On this line of questioning, on Monday—or Tuesday, rather, if Counsel wish to state the purpose. I take it, ordinarily, in this type of examination, the Court would not ask Counsel to state the purpose. We have gone a long ways here, and there is some indication it may be subject to some statement or purpose.

Mr. Griffin: Yes, your Honor.

The Court: And so, when we take up again, we will go into that.

Mr. LeSourd: May I say to the Court that this entire matter of going into these completely irrelevant things, and particularly with the manner of questioning, if the manner of questioning, which I think is highly prejudicial, were done by the United States Attorney, I think it would clearly subject this case to a mis-trial, and since Mr. Griffin is in effect prosecuting this defendant, I am going to take the position that it is just as if the United States Attorney were going into this line of questioning, and I am going to move for a mis-trial, your Honor, if it persists.

Mr. Moriarty: We refuse to accept the nomination. [4146-47]

\* \* \* \* \*

The Court: Mr. Griffin, do you have a matter?

Mr. Griffin: Your Honor desired me to make a statement as to the purpose of this line of exhibits.

The Court: Particularly, I had in mind the purpose of not the exhibits, but particularly the line of examination with relation to the particular figures that were gone into apart from the drawing account. That was the only matter.

Mr. Griffin: The purpose of that, the materiality of it and purpose of it, which will become quite evident as I proceed, if permitted so to do, is this: notwithstanding the statement of Counsel as to my cross-examination of Mr. Taylor as to a matter of guilt, while my personal view is of no importance, I have no thought that Mr. Taylor was in reality consciously cognizant of what he was doing, or that he was consciously endeavoring to assist in evading

income taxes insofar as Mr. Forster was concerned, but the things that he did reached that result, and our defense in this case, of course, is the reliance upon Mr. Taylor, and that the faulty bookkeeping on his part caused this situation. Now, then: these statements that I am using meet this situation. They show precisely [4156] what Taylor did. They show, as we proceed, how he did it and not as stated by him. They show on their face the pattern of the accounting that he rendered to Mr. Forster, and they show on their face, the inconsistencies between one month and another, in one year, and the later year.

They show on their face, other inconsistencies between the same statements for the same month, and the same year-end statements supplied to Mr. Forster in the very statements themselves, and that is why I am going into those figures. They were apparently picked out of the air.

For example: Take cash. Two statements for the same period. One will show a substantial plus cash, and the other, minus cash—overdrafts.

I am using those, without going into further detail, unless you want me to.

The Court: No.

Mr. Griffin: To how just what he was doing and what he gave Forster, and I propose to argue eventually from that, and if Forster had been—had known anything about accounting, this thing would have been picked up years before, because in the Indictment period, we have the same situation; no conversation because the pattern was laid before,



and it just took [4157] its natural course. That is the purpose of it. It will not be too long. It will take about a period to go through the rest of these down to the ones in evidence.

The Court: Mr. LeSourd?

Mr. LeSourd: If the Court please, I would like to take a moment to outline what we feel are the issues in the case, and what we feel is the permissible scope of evidence, relevant evidence, in this case, and particularly under direct examination.

It seems to me that this case comes down to some very easily definable issues. The evidence of the Government shows in the first place, receipts in substantial number, both checks and cash, which came into Issaquah and were not recorded on the books and were put in a savings account.

Now, that is one sharply defined issue in the case.

Another one are personal expenditures by Mr. Forster paid by business checks and charged to business expense. There is another sharply defined issue in this case.

Then, in addition, there are several issues involving subsidiary companies—the Renton Ice salary payments,—there is the Finstad and Utgard transaction [4158] involving payments to Mrs. Finstad, and there is the Simonson and Forster \$100 checks in 1948 and 1949.

Those are sharply defined issues, and in reality, that is what the case is all about. That is what the Government's case comes down to.

We have put Mr. Taylor on the stand, and he has testified on each of those direct issues, but here,



we are going into a matter of figures for other years, and in Mr. Goran's testimony, Mr. Griffin went into the matter of all sorts of accounting figures, both monthly as well as year-end, in the period covered by the Indictment, all of which your Honor has nothing to do with the direct issues in the case, and if we try to compare back in 1933 one statement with another, that is twenty years ago. There may have been a myriad of adjustments that would cause the difference in two different statements reflecting a situation as of that period, and if we are required to try to resurrect all sorts of accounting adjustments not in this issue whatsoever, and in reality have no direct bearing on who was responsible for not putting these receipts in the books, we may be here some time on it, and I don't like to continually object to the evidence going in, your Honor. It is not something that is good for my position before the Jury, but I feel the thing has gone to such a [4159] wide scope that it is entirely improper, either as cross-examination or as relevant to the case as a whole.

The Court: Well, as I have indicated before, and I believe, as all Counsel realize, the issue in this case, as it will go to the Jury, is essentially one of knowledge and intent on the part of the Defendants.

The failure to pay tax, the fact that there was an amount due, that was not paid, you might say, is conceded. I don't think there is any question about that. The issue now then is: Did these Defendants individually, Mr. Forster, Mr. Taylor and

Mr. Erickson, have knowledge, or should have knowledge?

Mr. LeSourd: Your Honor, they can't be convicted just for "should have knowledge."

The Court: Have intent.

Mr. LeSourd: Yes.

The Court: So that, therefore, all this is going in on that issue, and, of course, there is a limit to the extent which the Court should permit either direct or cross-examination with respect to that issue.

It has been my belief, in ruling on these exhibits and on certain questions as they are put, that in connection with Mr. Taylor's cross-examination that he, [4160] having testified, and the record having shown that he represented these companies as an accountant, or in some capacity with the books, and as an officer from 1928 on, that some examination is permissible covering that.

Now, the problem that was bothering me at the close on Friday was not the general showing, but the specific items when they came to accounts payable or accounts receivable, I believe, as they were covered.

When the issue of knowledge and intent is so important in this case, I feel that the Court must go farther than might otherwise be advisable, particularly in view of the position of the Defendant in this case. Therefore, I have permitted and ruled on evidence as it has been offered, with that thought in mind. I have stated my position generally, and I don't know that I can make any further statement,

and Counsel will have to proceed as they see fit as we go ahead.

I don't know, is there any further question Counsel wishes to put as to the Court's view, admitting that you do not agree with it, perhaps—conceding that?

Mr. Moriarty: I think, if the Court please, [4161] there should be some limitation on these isolated instances of the Excise Tax Returns, and other things that Mr. Taylor may have signed in the past as Auditor in view of Mr. LeSourd's stipulation.

The Court: I think I have ruled on a number of those.

Mr. Griffin: I am sufficiently satisfied with the auditor ruling of the Court, and I do not intend to make any offer of proof in that particular, except that the usual exceptions to the refusal of the documents is all, because I think it is covered. [4162]

\* \* \* \* \*

### L. HICKS TAYLOR

upon being recalled as a witness for and on behalf of the Defendant Taylor, and having been previously duly sworn, testified as follows:

### Cross Examination

The Court: I believe the record shows a question and objection. Do you wish to strike that, Mr. Griffin, and restate it?

Mr. Griffin: Yes, I will drop that particular one, and proceed with another exhibit, if the Court please.

(Testimony of L. Hicks Taylor.)

Will you mark that?

The Clerk: Defendants' Exhibit A-94 marked for identification.

(Defendants' Exhibit No. A-94 marked for identification.)

Q. (By Mr. Griffin): Mr. Taylor, did you prepare these balance sheets, profit and loss statements, for Mr. Forster or Issaquah Creamery with any more care when you were delivering same to a bank than you did when delivering to Mr. Forster only?

A. May I look at that work sheet, please?

Q. I am just asking the general question at the present time. [4165]

A. The care was the same at all times.

Q. Thank you; handing you Exhibit A-94 for identification, I will ask you if this is the balance sheet, profit and loss, and so on, for November, 1935?

Mr. LeSourd: What organization, Mr. Griffin?

Mr. Griffin: Issaquah Creamery.

A. Yes, I prepared those.

Q. (By Mr. Griffin): And is this your writing: "Given to Issaquah State Bank, December 30, 1935"? A. That is correct.

Mr. Griffin: A-65 and A-66, please.

(Whereupon, exhibits were handed to Mr. Griffin by the Clerk.)

Mr. LeSourd: If your Honor please, we make the same objection, that it is completely irrelevant and immaterial and improper cross-examination.

Here is a month-end statement back in 1935.

The Court: Objection overruled.

(Testimony of L. Hicks Taylor.)

(Defendants' Exhibit A-94 admitted in evidence.)

The Court: (Continuing) I believe at this time I will advise the Jury that in connection with certain testimony that is now coming in, certain [4166] exhibits, these are not to be considered by the Jury as having any bearing on the issue of tax evasion in the—insofar as tax is involved in the years involved, namely for the years 1945 to 1949, inclusive. They are to be considered, if they have any bearing, if the Jury so finds, insofar as it may relate to knowledge and intent of the parties insofar as the circumstances of the transactions covered by the evidence may have some relationship upon knowledge and intent for the years involved. Whether they do or not is a matter for the Jury to determine.

Mr. LeSourd: If the Court please, I wish the record to show our objection to the statement of the Court in implying that there could conceivably be any relationship in these documents to knowledge and intent in the years here involved whatsoever. We feel it is improper and we wish the record clearly to show our objection to such a statement.

The Court: The Court will say for the record that if Counsel believes the Court has misstated the law and wishes to submit what he conceives to be the proper statement of the law you may submit the instruction and the Court will consider it.

The Court does not indicate that these [4167] matters do have any—necessarily have any—bear-



(Testimony of L. Hicks Taylor.)

ing, but they may have, in determining what the circumstances were, what the practices were in the yearly years, as between Mr. Taylor and Mr. Forster, and his companies. They may establish, if you so find, a course of transactions or accounting procedures or relationships that in some way may have a bearing on the issue of intent or knowledge.

I don't want you to think that the Court's comment on that is in any way binding upon you as to what your finding shall be from the evidence. I merely advise you so that it may be of some help to you in understanding why it is being permitted.

Mr. LeSourd: I wish the record to show our objection to the further remark on the same grounds.

The Court: The record may so show.

Q. (By Mr. Griffin): Exhibit A-94, Mr. Taylor, you prepared this and made the memorandum that you delivered it to the Issaquah State Bank, December 30, 1935?

A. That is the notation made at the top of this form, yes.

Q. That includes balance sheets and profit and loss statements, that exhibit, doesn't it? [4168]

A. It does not.

Q. Excuse me. This is your typewriting at the head, is it not? A. It is.

Q. Issaquah Creamery Company, Incorporated, balance sheet, November 30, 1935?

A. That means just what it says.

Q. That is not a balance sheet?

(Testimony of L. Hicks Taylor.)

A. That is a balance sheet, and that was what was delivered.

Q. My question was, it included balance sheets and profit and loss?

A. I said it did not. I did not deliver any profit and loss sheet. This was the only sheet delivered to Mr. Hall.

Q. I see, you did not deliver the rest of it?

A. I did not.

Q. I misunderstood you.

I am sorry. The exhibit, however, includes the profit and loss statement for November 30, 1935, does it not?

A. This is the monthly work sheet, yes.

Q. And also includes with profit—a separate profit and loss statement for November 30, 1935, with a complete breakdown of every item of merchandise, doesn't [4169] it?

A. Yes, this is quite a complete statement.

Q. Yes, quite a complete statement?

A. Yes.

Mr. Griffin: And so the Jury will know what I am referring to on that breakdown is the sales of butter, cheese, condensed, curd, sweet cream, raw skim, ice cream, bottle milk, commercial cream, whip, bars, casein, pot, miscellaneous.

Q. (By Mr. Griffin): That is correct, isn't it?

A. That was prepared by the office at Issaquah for me, and I copied it on there.

Q. You just copied it?                      A. That is right.

(Testimony of L. Hicks Taylor.)

Q. And in this exhibit, the Hans Forster account is \$22,930.41, is that right?

A. That is what it displays, yes.

Q. The month of November was generally a losing, or loss month, in this business, was it not?

A. Not always.

Q. Was the month of November a good month profitwise in the Creamery business?

A. It is not a banner month, but it didn't always lose money. [4170]

Q. Exhibit A-94, what was the situation for the month of November 30, 1935, as shown by you—by that exhibit?

A. In that month, being in 1935, the sales were only \$28,000 and they lost \$416 that month.

Q. What is this item, net loss, for the period?

A. The accumulated sales were \$150,000 and the net loss shows. The net loss shows \$3,095.44 for the eleven months.

Q. Mr. Taylor, I noticed in reading what was a typewritten figure, you looked at some figures on the work sheet. Do you have to consider the work sheet in connection with the statements to be able to read them?

A. Not necessarily. This is a little bit blurred. The carbon was blurred, so I looked over here to verify the figure.

Q. Will you put a cross at that \$3,095.44 that you say was blurred, if you will, please?

A. These two figures here.

Q. Thank you.

(Testimony of L. Hicks Taylor.)

Mr. Griffin: Will you mark this December 31, 1935, for identification, please?

The Clerk: Defendants' Exhibit A-95 marked for identification. [4171]

(Defendants' Exhibit A-95 marked for identification.)

Q. (By Mr. Griffin continuing): Mr. Taylor, handing you Exhibit A-95 for identification, I will ask you what that is?

A. This is the work sheet from the Issaquah Creamery Company covering a number of little memorandums showing a profit and loss for the year ending December 31, 1935.

Q. Is this your writing on the front, First National Bank of Stanwood?

A. That is right.

Q. Do I understand that these statements at the end of each month, and at the end of each year, with the exception of the work sheets—that is the printed matter—went to Mr. Forster from you?

A. The typed portions usually went to Mr. Forster, yes.

Mr. LeSourd: We will make the same objection, your Honor, to A-95 as to the previous one.

The Court: Any objection from the Government?

No objection?

Mr. Moriarty: No objection.

The Court: The objection may show, and the Court will overrule the objection. [4172]

(Testimony of L. Hicks Taylor.)

(Defendants' Exhibit A-95 admitted in evidence.)

Q. (By Mr. Griffin): Mr. Taylor, A-95, a balance sheet, Issaquah Creamery Company, December 31, 1935, profit and loss statement, December 31, 1935, profit previous years, and profit and loss statement again December 31, 1935, for the month of December, I take it—is that right?

A. That is not. That is for the year.

Q. That is, it is a duplicate again?

A. There are three copies there.

Q. All right; Mr. Taylor, I hand you Exhibit A-92, and what does A-92 show the profit to have been for the year 1933—the net profit?

A. \$2,019.40.

Q. Give me that figure again, will you, please?

A. \$2,019.40.

Q. Mr. Taylor, the statement that you gave Mr. Forster, Exhibit A-95, shows a profit for the year 1933 to be \$12,697.27, doesn't it?

A. Yes. Would you like that explained?

Q. I would.           A. All right.

We were dealing with Bankers who wanted to loan money, and Mr. Forster had not withdrawn sixty-nine [4173] hundred dollars of his salary. The depreciation schedule was taken—I am, right now I am assuming that is the figure. We reduced the depreciation \$3,777.87, making a total of \$10,677.87, plus \$2,019.40 makes a profit of—undrawn from the business of \$12,697.27 that was made for the benefit of the bankers.



(Testimony of L. Hicks Taylor.)

Q. Did you have any idea that the books should be kept accurately?

Mr. LeSourd: Object to the form of the question. A. Apparently——

Mr. LeSourd: Just a moment, Mr. Taylor. I object to the form of that question.

The Court: Objection overruled.

Q. (By Mr. Griffin): Did you have any idea that the books of Mr. Forster should be kept accurately?

A. Mr. Griffin, those books were kept accurately. This was done for a specific and definite purpose.

Q. To deceive the bank?

A. It was not done to deceive the bank. The bank was not deceived one iota.

Q. I hand you, Mr. Taylor, Exhibit A-93, and ask you what your statement there shows the profit to [4174] have been for the year 1934?

A. It showed a net loss of \$1.73.

Q. A net loss? A. Right.

Q. And, A-95, you show a profit for the year 1934 of \$11,469.30, don't you?

A. The exact same process was done again. We added back sixty-nine hundred dollars of undrawn salary of Mr. Forster, and we also reduced our depreciation to a smaller, or maybe a more fair, value, to \$4,569.30, and established a profit of \$11,469.30, which is not an untrue statement.

Q. Mr. Taylor, I hand you Defendants' Exhibit A-65, which is in evidence only for the figures "5" in there.

(Testimony of L. Hicks Taylor.)

Mr. LeSourd: Just a moment. A-65?

Mr. Griffin: Yes.

Q. (By Mr. Griffin continuing): I ask you if this is another of your statements for December 31, 1935, Issaquah State Bank—Mr. Forster?

Mr. LeSourd: I will object to questions on this, your Honor, until and unless the exhibit is admitted generally.

Mr. Griffin: I am just identifying it. [4175]

The Court: Mr. Griffin?

Mr. Griffin: I am identifying it.

Mr. LeSourd: I think it has been identified, but for merely identification, I have no objection.

A. Yes, I prepared that.

Q. (By Mr. Griffin): And is this your writing on there, Peoples Bank and Trust Company, December 31, 1935?

A. I believe you will find notations of that type whenever I prepared statements and they were delivered to the banks for my information.

Q. That is your writing?

A. That is for my information, yes, and my writing.

Mr. Griffin: I offer now A-65 in full, if the Court please.

Q. (By Mr. Griffin): Did you manipulate—

Mr. LeSourd: (Interposing) Just a moment. Do you offer it?

Mr. Griffin: Yes.

Mr. LeSourd: We make the same objection.

The Court: The same objection may show as to

(Testimony of L. Hicks Taylor.)

the preceding exhibits, A-94 and A-95. I believe they are all similar exhibits offered, and the objection [4176] is overruled.

(Defendants' Exhibit No. A-65 admitted in evidence.)

Q. (By Mr. Griffin): Mr. Taylor, did you manipulate figures in these balance sheets and profit and loss statements that you gave to Mr. Forster just as you saw fit?

Mr. LeSourd: Object to the form of the question.

Q. (By Mr. Griffin continuing): Did you manipulate the figures?

Mr. Griffin: I will stop there. It might be a double question.

A. Mr. Forster——

Mr. LeSourd: Just a moment.

The Court: You object to that, also?

Mr. LeSourd: I do, yes, sir.

The Court: Objection overruled.

A. (Continuing) Mr. Forster was in a very difficult position financially. The bankers wanted to work with him. The bank examiners would not accept minus figures. The bankers sat in on every change that was made. They weren't manipulations. They were changes that had a foundation and there [4177] was nothing irregular about them that anybody would be hurt in any way to give the bankers a chance to argue with the bank examiners that they could possibly loan Mr. Forster a few dollars.

Q. (By Mr. Griffin): I am handing you now, sir, Exhibit A-65 which is the statement for Decem-

(Testimony of L. Hicks Taylor.)

ber 31, 1935, delivered to the Peoples Bank and Trust Company, and A-95, the same precise date, to the First National Bank of Stanwood.

Looking at the Stanwood balance sheet, what do you show for sales?

A. The Stanwood Bank is A-95. The sales figures is shown at 480 thousand.

Q. \$472.26? A. Yes, correct.

Q. And on the same identical date what do you show for sales in the one you delivered to the Peoples Bank?

A. The sales at the Peoples Bank have apparently had an adjustment made and they show \$477,-961.54.

Q. Can you adjust cash the same way you adjust sales, or did you?

A. You can adjust cash as an explanatory account [4178] as well as you can any account on your ledger, unless you are carrying a petty cash account and that account must carry the exact cash on hand.

Q. On A-95, to Stanwood, what do you show cash on hand?

A. It shows an overdraft of \$6,213.74.

Q. And what does it show on Peoples?

A. \$2,187.03.

Q. The very same date the specific item of cash a difference of some \$8,410.80; is that right?

A. You might be enlightened, Mr. Griffin, to find that on the Peoples Bank statement you will find down in the current liabilities a column account

(Testimony of L. Hicks Taylor.)

check reserve, not cashed through the bank, of \$9,644.95; when you take \$6213 plus and another item you have \$2197.03 as cash on hand and that is what the bank statement at the bank has probably shown, I can not remember.

Q. The difference between the cash on hand that you show to the Peoples and to Stanwood and as you delivered to Mr. Forster on the very precise date, the difference in that cash is \$8410.79, isn't it?

A. I haven't figured it. It probably is.

Q. There could be no actual difference in [4179] cash, could there, Mr. Taylor?

A. There is no difference in cash in these figures. They will check out.

Q. That is, a minus—an overdraft of \$6,213.76 checks out with cash on hand \$2,197.03; is that your statement?

A. Mr. Griffin, when any balance sheet balances your figures are never incorrect in that balance sheet. You may adjust them, suitable figures to suit certain occasions——

Q. (Interposing) Commonly——

A. (Continuing) ——and yet you have not misstated the sense of the balance sheet.

Q. Commonly called forcing a balance, is that it?

A. I wouldn't say forcing any balance. Those balances are in agreement.

Q. The balances are in agreement?

A. The balances are in agreement.

Q. Before I go to the divisional questions here,



(Testimony of L. Hicks Taylor.)

Mr. Taylor, and you say the balances are in agreement, what do you show on the Peoples statement as to net profit or loss?

Mr. Cox: For what period?

Mr. Griffin: This is December 31, 1935. [4180]  
I am using the precise date of each one.

A. I showed a loss on the Peoples Bank of \$1,369.37, which was the same adjustment that I explained a few minutes ago.

Q. (By Mr. Griffin): You showed a loss, a net loss, for the period of \$1,369.37, didn't you?

A. That is correct.

Q. And on the Stanwood you showed profit, net profit, of \$13,732.75, didn't you?

A. I believe that I very carefully explained that a few minutes ago.

Q. Will you answer the question, please?

That is what it shows, isn't it, profit to Stanwood \$13,732.75?

A. As I adjusted it, yes, and explained it a while ago.

Q. You just stated that they balanced. They don't balance against each other, do they?

The Stanwood statement of December 31, 1935, and the Peoples Bank statement of December 31, 1935?

A. They are two distinct statements for a purpose.

Q. Was one purpose to be able to show [4181] that Issaquah Creamery Company was operating at a loss for the purpose of borrowing money?

(Testimony of L. Hicks Taylor.)

A. We were not borrowing at the Peoples Bank.

Q. Mr. Taylor, which of those statements before you, the statement of the Peoples Bank or to the Stanwood Bank, is correct?

A. They are both correct for the purpose in which they were prepared for.

Q. Is a balance sheet prepared by you, as prepared by you, to state the actual factual condition, or is it not?

A. These are factual conditions.

Q. Upon which of those two statements could Mr. Forster rely as to whether he had made a profit or whether he was operating at a loss?

A. Mr. Forster rode on these statements continuously because he wanted to borrow money.

Q. You were not borrowing money at the Peoples, you said.

A. You were borrowing at Stanwood, My Good Friend.

Q. Were you borrowing at Peoples?

A. We were not as I remember it at that time.

Q. Actually, Mr. Taylor, no matter what your purpose was, factually the accounts receivable and the accounts payable in each instance factually had to be the same, didn't they?

A. They had to balance with each statement given.

Q. Do I understand then that you, having put out two statements of December 31, 1935, neither of which agrees with each other either as to profit or loss, is it your theory that you could put out ten

(Testimony of L. Hicks Taylor.)

statements; as long as each one balanced separately they are all right?

A. You can—if you alter figures or make an amended balance sheet for a purpose and it is thoroughly explained nobody is harmed by it.

Q. My question still is: Well, put it this way:

Upon which of those balance sheets could Mr. Forster rely as to whether he had made a profit under your accounting system as given him, or whether he had operated at a loss?

A. Mr. Forster was drawing a salary of two thousand dollars a month and he was not drawing it all. He was allowing some of it to remain in the business. The bankers liked to loan money [4183] where they can; they like to hold accounts in the small towns. This theory was worked out more by the bankers than it was by me to hold Mr. Forster's account in the Issaquah State Bank.

The First National Bank of Stanwood was owned by Beadon Hall's brother and if Mr. Forster had to take one of his chattel mortgages out of the Issaquah Bank and move it to Seattle, Seattle would demand all their loans. This is a combination between Beadon Hall and Bud Hall, his brother, who operated the two banks.

Q. Then do I understand you were not making and supplying Mr. Forster with these balance sheets and year-end statements so he could know how his business was going but you were supplying them to the bankers as the bankers suggested?

A. Mr. Forster had a true copy of the profit and

(Testimony of L. Hicks Taylor.)

loss statement displaying his full salary. He knew what the condition was.

Q. A profit and loss statement displaying his full salary, you say?      A. That is correct.

Q. Will you show it on there? Show me where.

A. Will you give me the schedule that [4184] has all the work sheet papers on it, please?

Q. Just a moment. What salary do you show to Mr. Forster, by the way, upon the statements to the Peoples Bank?      A. \$10,500.00.

Q. And what to the Stanwood Bank?

A. \$3600.00.

Q. And you were not only the accountant but the secretary of this corporation making that showing, is that right?

A. That is exactly what Mr. Forster drew from this company that year.

Q. Which?      A. \$3600.00.

Q. Not \$10,500.00?

A. No; he was voted \$10,500.00.

Q. I thought you just testified he was drawing two thousand dollars a month?

A. I was in error, when I get back to 1934; I am sorry.

Q. Did Mr. Beadon Hall advise you that he wanted for his bank a false statement of the assets and liabilities, profit and loss, of Issaquah Creamery?

Mr. LeSourd: If your Honor please, I haven't objected all through here. I didn't want to [4185] encumber the thing he is talking about. I would

(Testimony of L. Hicks Taylor.)

like, your Honor, to have a standing objection to all this testimony back in this period, whether details of these financial statements or otherwise, as being utterly irrelevant and immaterial and improper cross-examination, so that I will not have to interrupt.

Mr. Griffin: I understand.

The Court: You may have such an objection, Mr. LeSourd.

Mr. LeSourd: Thank you.

The Court: And the record may show, I gather now, that you believe all this testimony is immaterial and irrelevant and, therefore, want the objection to go to all of it.

Mr. LeSourd: Yes; improper cross-examination.

Q. (By Mr. Griffin continuing): Now, back——

The Court: (Interposing) That doesn't cover form.

Mr. LeSourd: Pardon?

The Court: Your objection covers everything except objection as to form.

Mr. LeSourd: That is right.

The Court: Objection overruled. You may answer. [4186]

Q. (By Mr. Griffin continuing): The question was:

Did Mr. Beadon Hall ever request you to make a false statement of assets and liabilities, profit and loss, of Issaquah Creamery Company?

Mr. LeSourd: I should object to that on the ground of form also. The testimony here shows the



(Testimony of L. Hicks Taylor.)

statements were not false and it assumes a fact contrary to the testimony.

The Court: As I understand the question, that is what the question is, or asks.

Mr. Griffin: Yes, sir.

The Court: Objection overruled.

A. There wasn't any figures given Mr. Hall that were false.

Q. (By Mr. Griffin): My question was: Did Mr. Beadon Hall ever ask you to make a false statement—profit and loss—balance sheet—assets—Issaquah Creamery Company?

A. None was ever given him.

Q. Would you—do you object to answering the question, Mr. Taylor? It can be answered “yes” or “no.” [4187]

A. I can't remember anything about it.

Mr. Griffin: Now, will you mark this?

The Clerk: Defendants' Exhibit Number A-96 marked for identification.

(Defendants' Exhibit A-96 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-96, for identification, I will ask you if this is the balance sheet, profit and loss, assets, Issaquah Creamery, December 31, 1936?

(Whereupon, there was a brief pause.)

A. Yes; that is the work sheet.

Q. You have used the term “work sheet.” What do you mean by that?

(Testimony of L. Hicks Taylor.)

A. That is my private papers that belong in my private files.

Q. By the "work sheet," you are referring to the yellow copies?

A. I am referring to what you have in your hand. Those are part of my private files.

Q. These—the particular one I hold in my hand, A-96, you delivered personally to the Issaquah Creamery just before you went to McNeil Island, didn't you? [4188]

A. They were still my property.

Q. Will you please answer the question?

A. I delivered them there as my property; yes.

Q. One could not read—you also delivered the ledgers there that you maintained, didn't you?

A. That is correct.

Q. And the work sheets were necessary even in your own interpretation of the ledgers, weren't they?

A. They had a bearing on the finals, yes.

Q. And because you were going to be away and you knew that Mr. Forster was being investigated you left the work sheets there with the ledgers so that they could be examined and inspected, didn't you?

A. Mr. Forster had not been questioned or placed under examination at the time those were delivered there.

Q. When did you deliver them there?

A. My recollection is along about the 11th of April.

(Testimony of L. Hicks Taylor.)

Q. Of 1950? A. That is correct.

Q. What was your purpose in leaving them there? [4189]

A. Because if there was an examination I was only about fourteen or fifteen miles away, my trusted attorney could have contacted me to discuss how those files were and how they could have been followed out. Mr. Kachlein made no effort to contact me to go into those files. Mr. Marx could have picked those books and work sheets out and started work on them within fifteen minutes after it was explained how to proceed.

Q. My question was: Why did you leave them at the Issaquah Creamery, Mr. Taylor?

A. For my own information and for Mr. Forster's information.

Q. Very well.

Mr. Griffin: A-96, I am offering this.

Q. (By Mr. Griffin continuing): I think you said, Mr. Taylor, that when the split-off came between Alpine and Issaquah Creamery Company it required a good deal more work on your part; is that right?

A. It required the keeping of two ledgers and keeping of two journals, yes.

Q. You were breaking down separately the Seattle business from the Issaquah Creamery business prior to that break-off, weren't you? [4190]

A. Yes, there was some distribution.

Q. And that distribution is shown on the December 31st——

(Testimony of L. Hicks Taylor.)

Mr. Griffin: Pardon me. This was offered. I am sorry.

Mr. LeSourd: We make the same objection.

The Court: To A-96?

Mr. LeSourd: Yes.

The Court: It may be noted and the objection will be overruled and A-96 may be admitted.

(Defendants' Exhibit A-96 admitted in evidence.)

Q. (By Mr. Griffin continuing): And as of December 31, 1936, the profit and loss as between Issaquah and what later became Alpine is stated separately, isn't it, in detail?

A. Just the genuine regular profit and loss statement was prepared, yes.

Q. Separately for each? A. Sure.

Mr. Griffin: It is recess time.

The Court: Ladies and Gentlemen of the Jury: We [4191] will now take the mid-morning recess. The Court calls your attention to the admonition given you on similar occasions and asks that you heed the admonition given you on this occasion. You may now be excused.

(Whereupon, the jury retired from the court room.)

(Whereupon, at 11:02 o'clock, a.m., a recess was had until 11:17 o'clock, a.m., April 20, 1954, at which time, Counsel and Defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: You may call the Jury.

(Testimony of L. Hicks Taylor.)

(Whereupon, the Jury was returned to the court room.)

The Court: You may be seated.

It is stipulated that the Jury and all Defendants are present in the court room?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

The Court: You may proceed, Mr. Griffin.

Q. (By Mr. Griffin): Mr. Taylor, with reference to Exhibits A-65 and A-95, one to the Peoples Bank and Trust Company and the other to the First National Bank of Stanwood, one [4192] stating a net loss and another a net profit, which of those balance sheets and profit and loss statements did you use for the income tax of Issaquah Creamery for the year 1935?

A. As I recollect, we used the book figures that showed.

Q. You used the book figures that showed?

A. Yes.

Q. The book figures that showed where?

A. They showed a loss.

Q. They showed a loss? A. Yes.

Q. Although there was a profit, is that correct?

A. Mr. Griffin, the purpose of this statement was to try to keep Mr. Forster remaining in business. His position was very precarious whether the Issaquah Creamery would exist or not. The bankers were trying to be generous, to some extent, and knew that this business would not carry normally Mr. Forster's salary. They knew we were



(Testimony of L. Hicks Taylor.)

taking the Federal Schedule of Depreciation. A small operation must keep its equipment up. Probably the depreciation might have been a trifle high. The value was probably greater. The purpose of these statements was to give the bankers merely a true value of the equipment and of the condition that existed at the time [4193] and Mr. Forster sat in and saw and worked with me when we worked out these statements, so that there was nothing concealed from anybody. It was done for a purpose, to keep this man at Issaquah operating, employing a few people. Nobody had been damaged by this.

In fact, the town of Issaquah has benefited by the rearrangement of these figures to make Mr. Forster's Issaquah Creamery Company appear in a little better financial condition.

Q. You don't think Mr. Forster has been harmed?

A. Not by these, he wasn't harmed one iota.

Q. If accurate statements of income had been made to the United States Government—change that.

You knew that if inaccurate statements were made to the United States Government on income and on profit, Mr. Forster would be harmed; didn't you?

A. I knew that. So did he.

Q. And, notwithstanding that, you made these returns?

A. These returns were audited by the Internal Revenue, I believe, clear up to 1939 and they didn't

(Testimony of L. Hicks Taylor.)

particularly question our thoughts on the thing.

Q. In Exhibit A-96, I notice you have real estate and so forth, \$105,501.31 for Issaquah Creamery; is that correct? [4194]

A. That is what it shows here, yes.

Q. What was the value of the real estate that you had been carrying each year prior thereto, or what valuation, rather, had you carried?

A. Of course, that says "etc."; that could mean all the balance of the equipment, including the real estate.

Q. Do you know what valuation you had been carrying on real estate prior thereto?

A. As I recollect, it had been around \$3200.

Q. \$3200?

A. I will change that point. It showed at \$5,382.38.

Q. And A-96, for December 31, 1936, shows a loss for the month of December, \$847.40, is that right?

A. May I have it in my hand so that I can see it?

(Whereupon, Exhibit was handed to the witness by Mr. Griffin.)

A. (Continuing) Yes, it shows a loss of \$847.40.

Mr. Griffin: Will you mark the August 31, 1937, balance sheet, please?

The Clerk: Defendants' Exhibit A-97 marked for identification.

(Defendants' Exhibit A-97 [4195] marked for identification.)

(Testimony of L. Hicks Taylor.)

Q. Handing you Exhibit A-97 for identification, I will ask you if this is the balance sheet, profit and loss, Issaquah Creamery, as of August 31, 1937?

A. Yes, that is quite complete.

Q. Detailed; correct?

A. Not detailed. It is quite complete, the report.

Mr. LeSourd: Mr. Taylor, this includes certain sheets which had been received by you, I take it, in addition to your work?

The Witness: May I look at it, Mr. LeSourd—so that I can speak intelligently on it.

(Whereupon, exhibit was handed to the witness by Mr. LeSourd.)

The Witness: (Continuing) This includes figures from the Alpine Dairy, the re-cap of Mrs. Wilcox included with these work papers.

Mr. LeSourd: And also adding machine tapes?

The Witness: Adding machine tapes are included, also.

Mr. LeSourd: We make the same objection, your Honor.

The Court: The objection may show. The exhibit may be admitted. [4196]

(Defendants' Exhibit No. A-97 admitted in evidence.)

Q. (By Mr. Griffin): Mr. Taylor, you referred to Exhibit A-97 when you were identifying it, as quite complete; is that correct? A. Yes.

Q. Had the real estate of Issaquah Creamery Company been sold between the report of December 31, 1936, and August 31, 1937?

(Testimony of L. Hicks Taylor.)

A. May I see the exhibit, please?

(Whereupon, exhibit was handed to the witness by Mr. Griffin.)

A. (Continuing) No, the real estate had not been sold.

Q. You didn't include it as an asset, did you?

A. Oh, I would say I did.

Q. Where?

A. Under the "Fixed Assets" of equipment.

Q. Excuse me; I read, Fixed Assets, Equipment, \$104,629.54? A. That is correct.

Q. You included real estate under equipment, is that correct?

A. Yes, for this statement; yes. [4197]

Q. Why?

A. There is usually no increase or decrease in real estate, and we usually don't segregate it in that type of statement.

Q. Mr. Taylor, in every statement you made on the Issaquah Creamery prior to this statement of August 31, 1937, you segregated the real estate, didn't you?

A. Would that make any difference in the final figures?

Q. Mr. Taylor, I am——

A. (Interposing) That was made up for a certain purpose. From memory, I do not remember what the purpose of it was, but it is quite a complete statement made out for some special purpose.

Q. My question was, Mr. Taylor:

In every statement prior to this August 31, state-

(Testimony of L. Hicks Taylor.)

ment of 1937, you included and segregated the real estate as an asset, didn't you?

A. It is possible, yes.

Q. But this, because you say there was some special purpose you don't remember, you didn't do it; is that right? A. No.

Q. Is that correct?

A. That is correct. [4198]

Q. Well, Mr. Taylor, the year-end statement is not made for a special purpose except as the year-end statement, is it?

A. Sure, it is made for a special purpose.

Q. The same special purpose of each year-end statement? A. That is correct.

Mr. Griffin: Will you mark this statement of December 31, 1937, for identification, please?

The Clerk: Defendants' Exhibit A-98 marked for identification.

(Defendants' Exhibit A-98 marked for identification.)

Q. (By Mr. Griffin): The monthly statements were made, were they not, to advise Mr. Forster of his position financially? A. Certainly.

Q. Whether he was making money or losing money? A. That is correct.

Q. What he had, and what he owed?

A. He knew.

Q. What he had and what he owed?

A. And he knew.

Q. Mr. Taylor, were these statements made to



(Testimony of L. Hicks Taylor.)

Mr. Forster monthly, so that he would know what he possessed, [4199] and what he owed?

A. That is right, and he knew from those statements what he possessed, and what he owed.

Q. Handing you Exhibit A-98 for identification, I will ask you if this is the balance sheet for December 31, 1937, as prepared by you and delivered to Mr. Forster?

A. I would say that it was, yes.

Mr. LeSourd: Same objection, your Honor.

The Court: The objection may show. Objection overruled, and A-98 may be admitted.

(Defendants' Exhibit A-98 admitted in evidence.)

Q. (By Mr. Griffin): Mr. Taylor, on A-98, balance sheet, December 31, 1937, you show real estate, do you, as an asset? A. That is right.

Q. Issaquah Creamery owned at that time, the same real estate that it owned for years, did it not, and which you had theretofore included as an asset?

A. Mr. Forster knew it was included in the equipment account.

Q. Do I understand it didn't make any difference what you showed in the balance sheet, or profit and loss statement if Mr. Forster knew it already?

A. Mr. Forster went over these with me many times. [4200]

Mr. Griffin: Will you mark this balance sheet of December 31, 1938?

The Clerk: Defendants' Exhibit No. A-99 marked for identification.

(Testimony of L. Hicks Taylor.)

(Defendants' Exhibit No. A-99 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-97 for identification——

The Clerk: (Interposing) A-99, Mr. Griffin.

Q. (By Mr. Griffin continuing): Pardon me; A-99, I will ask you if this is the balance sheet, December 31, 1938, Issaquah Creamery Company, which you delivered to Mr. Forster?

A. I would assume that he had a copy of this.

Q. Prepared by you?

A. That came from my private files, that particular copy.

Mr. LeSourd: Same objection, your Honor.

Mr. Moriarty: We have no objection.

The Court: The objection may show. The objection is overruled, and A-99 may be admitted.

(Defendants' Exhibit No. A-99 admitted in evidence.) [4201]

Q. (By Mr. Griffin): A-99 shows assets, real estate, \$21,393.73, doesn't it?

A. Real estate shows \$9,557.44.

Q. You are right. I got the wrong line.

That is the same real estate that was owned the previous year, wasn't it?

A. There was probably an addition. That was the reason I set it out separately.

Q. Was there an addition?

A. I do not remember that, but that is probably the reason for it.

(Testimony of L. Hicks Taylor.)

Mr. Moriarty: What year is that, Mr. Griffin?

Mr. Griffin: December 31, 1938.

Q. (By Mr. Griffin): Do you recall in this statement, Exhibit A-99, you included as an asset stock in Issaquah State Bank? A. Yes.

Q. And is it correct that you value your routes as an asset at \$28,552.02? A. Yes.

Q. And in the December 31 statement of the previous year, you value those routes at \$40,111.47, do you? [4202]

A. May I have the statement you have in your hand?

(Whereupon, document was handed the witness by Mr. Griffin.)

A. (Continuing) If you will notice, Mr. Griffin, that I have routes \$28,552.02 and I have a caption Goodwill in Routes \$12,500, which makes the figure, I believe.

Q. Do you believe that, you say?

A. I believed it, because Mr. Forster did.

Q. Mr. Forster did what?

A. He believed the routes were worth that. I never drove a route, so that I don't know.

Mr. Griffin: Will you mark this?

The Clerk: Defendants' Exhibit No. A-100 marked for identification.

(Defendants' Exhibit No. A-100 marked for identification.)

Mr. LeSourd: Same objection.

The Court: Is that a similar sheet?

Mr. Griffin: It is dated December 31, 1938.

(Testimony of L. Hicks Taylor.)

Mr. Moriarty: I thought 99 was '38.

Mr. Griffin: Correct; each one.

The Court: Is that A-100?

Mr. Griffin: A-100, yes, your Honor. [4203]

The Court: What is A-99?

That was the balance sheet alone?

Mr. Griffin: Balance sheet.

The Court: The objection may show, and the objection is overruled.

(Defendants' Exhibit A-100 admitted in evidence.)

Q. (By Mr. Griffin): Now, Mr. Taylor, you delivered A-99 to Mr. Forster, you say, and I hand you A-99 and A-100. In A-100, will you turn to your balance sheet, please?

In the one that you delivered to Mr. Forster, that balance sheet as of December 31, 1938, you show cash on hand \$2,406.42, don't you? A. Yes.

Q. And in A-100, balance sheet, the same date, you show cash on hand \$4,797.66, don't you?

A. May I ask where did this A-99—where did you recover it from?

Q. You will just answer my questions. That will be the interesting part, Mr. Taylor.

The Court: Mr. Taylor, the exhibit is in evidence now and the question has been put.

A. The figures have been rearranged to some extent on the statement made—this statement—to the one made [4204] in this work sheet, while the net result of the combined statement has not been changed. The purpose was to probably bring out

(Testimony of L. Hicks Taylor.)

some points here that aren't brought out on this work sheet. Many times that is done. I don't know what this was prepared for.

If I had some source of knowing what it was prepared for—of the particular purpose—I could explain it probably a little better.

I think it was for the bank. I am not sure.

Q. (By Mr. Griffin): My question, Mr. Taylor, is that the cash shown in Exhibit A-100 is \$4,797.66, isn't it?      A. That is correct.

Q. As opposed to \$2,406.42, the one you delivered to Mr. Forster?

A. This would be the statement that was delivered to Mr. Forster, not this one.

Q. Do you want to change your testimony that that A-99 was not delivered to Mr. Forster?

A. I said it was possible it was delivered to Mr. Forster. I don't know for sure.

Q. Do you want to change your testimony that you prepared A-99?

A. Yes, I prepared A-99. I admit that, and I also prepared A-100. [4205]

Q. Take the notes receivable on the same day. The notes receivable, two statements made for the same day, would have to be the same, wouldn't they?

A. It would depend on the purpose of the statement.

Q. Mr. Taylor, is there any purpose in making a financial sheet, except to show assets accurately, liabilities accurately, and eventually surplus or net worth?



(Testimony of L. Hicks Taylor.)

A. Mr. Griffin, balance sheets have many stories connected with them. It depends on the approach that you want to make with your balance sheet.

Q. Mr. Taylor, does a profit and loss statement have any purpose except to accurately state the facts to show either a profit or a loss?

A. Profit and loss statements, if all your figures have been assembled so that they are complete and without variance, your profit and loss statement will reflect your true profit and loss. Many times, at the close of the year, your final figures aren't always definitely determined. Many times, there are changes in figures between the first and the thirtieth of the month.

Q. Let's go back to the two balance sheets, Mr. Taylor. A-99, you show notes receivable—these are notes, now—\$3,444.94, don't you? [4206]

A. Yes, sir.

Q. In the other balance sheet, same date, you show notes receivable \$3,847.89, don't you?

A. That is right.

Q. Now, a note is a written obligation of somebody owing Issaquah Creamery Company something, isn't it?

A. Sure.

Q. How could those two statements on the same day differ as to the amount due on notes?

A. In an analysis of your figures, you change them from one position on a statement to another, if you are wanting to give a statement for a purpose.

Q. The statement of December 31, 1938, was

(Testimony of L. Hicks Taylor.)

given for the purpose of determining, one, assets and liabilities, wasn't it?

A. That was the purpose of it, yes.

Q. Number two, profit and loss, wasn't it?

A. There isn't any profit and loss with this A-99.

Q. All right; we will deal with the balance sheet alone, then, for the present.

Mr. Taylor, in A-99, your balance sheet shows accounts receivable. That would be money due Issaquah Creamery on open account, wouldn't it?

A. That is correct.

Q. \$45,650.55, is that correct?

A. 56 cents.

Q. 56 cents; and in the other statement, the very same date, before you, it shows accounts receivable, \$56,660.68?

A. That is correct.

Q. Now, the fact is that on that date, people owed the Issaquah Creamery Company a certain amount of money, didn't they?

A. That is correct.

Q. Which of those—which of those statements of yours is correct as to the amount due?

A. If this statement was given for credit purposes, this statement would reflect the true figures.

Q. By "this" one, you are referring to 99?

A. 99, if given for credit purposes, yes.

Q. And then the work sheet in front of you that you used for income tax purposes does not reflect the true purpose, is that correct?

A. It would reflect the true figures of the ledger, yes.

(Testimony of L. Hicks Taylor.)

Q. It would reflect the true figures of the ledger?

A. Yes. [4208]

Q. The ledger was kept by you?

A. Two distinct purposes of two financial statements.

Q. The ledger was kept by you, solely?

A. Right.

Q. Under your control? A. Right.

Q. Mr. Taylor, in A-99, the inventory is \$15,-169.43, isn't it? A. That is correct.

Q. And on the same date at the same time in the other statement, it is \$16,891.83, isn't it?

A. That is correct.

Q. You don't mean that either one is correct, do you? You mean that those are the correct figures? A. That is what I said.

Q. Which is correct, actually, as to inventory?

A. If this was given for credit purposes, which I stated, these were analyzed figures, and were correct figures.

Q. By "this", again, you are referring to 99?

A. 99.

Q. Why did you use a different figure for inventory in Exhibit A-100 on the same day?

A. It is possible that there was something in there that wasn't a saleable product taken in the inventory. [4209]

Q. Mr. Taylor, in A-99, under equipment, you show \$75,375.17, don't you?

A. That is correct.

(Testimony of L. Hicks Taylor.)

Q. And under the exhibit 100, it is \$88,394.12, isn't it?      A. That is correct.

Q. Which is actually factually correct, which statement?

A. If the credit statement—this is a credit statement. This statement was analyzed and properly made out as to values.

Q. Then that is the statement that should have been used for income tax purposes, isn't it?

A. Not necessarily.

Q. Mr. Taylor, A-99, depreciation reserve, is \$54,195.80?      A. That is correct.

Q. But on the other statement, \$62,938.77?

A. That is correct.

Q. And on A-99, routes valued at \$28,552.02, is that correct?      A. Correct.

Q. And under A-100, \$9,514.55?

A. That is correct.

Q. Mr. Taylor, why did you value the asset of cash higher in 100 than you did in A-99 but valued the [4210] routes higher in A-99 than you did in A-100?

A. This statement was made—I assume now—I am assuming this because I don't know who it was delivered to, or for what purpose—but I am assuming that this was a statement given for credit purposes. In the first place, possibly, in our depreciation schedule in the December 31st, A-100, possibly a piece of equipment had been sold and had been eliminated; that I don't know without trying to do some checking back. The purpose of this was

(Testimony of L. Hicks Taylor.)

to bring the routes to an appraised value. They did appear on the books only at \$9500, but for credit purposes, we felt that the routes were worth more money. Mr. Forster appraised those routes, and they were placed on this statement for that purpose only. Any other figures that have been changed here have been done for the purpose for which this statement was made out.

Q. Will you turn to liabilities on those two statements, Mr. Taylor? A. Yes, sir.

Q. On A-99, you show milk account liability, \$11,188.17, is that correct?

A. That is right.

Q. And on A-100, \$9,616.53?

A. What is this, again? [4211]

Q. Milk accounts payable on A-100, \$9,616.53?

A. Yes.

Q. Which is correct as to the accounts actually payable on this date?

A. I would say this statement had been properly analyzed and they were properly set up.

Q. What do you mean by "analyzed"?

A. We analyzed them as to what they were. Sometimes these accounts twist back and forth.

Q. Notes payable on A-99 were \$12,729.29?

A. Yes.

Q. On A-100, \$4,825.90?

A. On which is this one now? \$4,825.90, yes, on this distributive statement, yes.

Q. Mr. Taylor, if you were using this statement, you say, being Exhibit A-100, for income tax pur-



(Testimony of L. Hicks Taylor.)

poses, why did you depreciate notes payable to some eight thousand dollars as compared with the statement to the bank, if it was a statement to the bank?

A. In working some of these, there is contracts payable. There is notes, sometimes, that are made out for a purpose and maybe carried in one or another account and not transferred over. When we made this statement, we assembled all those. There would be a working paper with this that would prove every one of these figures [4212] that were in my work papers turned in. If this were attached to it properly, we would just read them off and find them right together, but you are giving me part of this, and a little bit of that, and you expect me to sit here and tell you what eleven thousand dollars is composed of.

You have taken those files and played tit-tat-toe with them in Issaquah, and you expect me to give you answers to things that were made up that have a proof sheet that could be attached to them.

Q. My Taylor, my question is: if you were using A-100 for income tax purposes, how does it happen that you depreciated the liabilities in A-100 over A-99 when you say A-99 was analyzed and is correct?

A. With the work sheets attached to this, I can tell you how every figure worked out.

Q. You don't know, then?

A. You are handing me part of my work sheets. You jumbled up my work sheets so that nobody could find anything, and you expect me to pull

(Testimony of L. Hicks Taylor.)

this sheet out here and tell you that John Jones, Pete Smith make up that notes receivable and payable. Why don't you bring them out complete so that I can really answer you?

Q. Mr. Taylor, A-99, the accounts payable are \$18,862.35, aren't they? [4213]

A. There are a combination of some figures, yes.

Q. And in A-100, the accounts payable are \$7,853.20, aren't they?

A. That happens to be the ledger page balance, yes.

Q. Which was correct, Mr. Taylor, the ledger page of the ledger that you kept or A-99 that you say was especially analyzed?

A. The ledger page in the ledger was correct.

Q. Then——

A. (Interposing) But we assembled other figures and combined them.

Q. What figures would you combine for accounts payable? Accounts payable mean precisely an accounting of the accounts payable, don't they?

A. Right.

Q. And then, if your ledger was \$7,853.20 will you explain to the jury how you get \$18,862.35 on Exhibit A-99 which you have said, time after time, that you analyzed?

A. Will you go and get the files out and bring me the work sheet that ties to this?

Q. If I had it, Mr. Taylor.

A. Well, if you had it. You did have it, and your Attorney, Mr. Kachlein, had it, and Hans For-

(Testimony of L. Hicks Taylor.)

ster [4214] had it and this could have been proven if you hadn't of thrown them up in the air and tried to find which sheet belonged to another.

Q. Do you have any explanation, in answer to my question?

A. The net worth figures here prove within \$300 of each other, up and down. That is proof in itself. You cannot change your total figures in the balance sheet that balances debits and credits, and these figures are within \$300 of each other, so that there is no exaggerated figure in here.

Q. Mr. Taylor, have you any explanation of why on the same date in two different balance sheets you show account payable on the one hand at \$7,853.20 and on the other, \$18,862.35?

A. Well, we have a Hans Forster account of \$7,084.54, we have accounts payable of \$7,853.20, and we have a discounts payable here of \$1,355.48.

\$18,293.22; you would make a comparison of accounts payable there. While it isn't the exact figure, it is very close to it.

Q. Mr. Taylor, to get a balance as between these two statements, what you did, among other things, was to manipulate inventory, wasn't it?

A. Inventory has been reduced by \$1700. Probably [4215] a piece of equipment or some other item that was in the inventory and moved to another account.

Q. You changed routes valuation by nineteen thousand dollars, didn't you? A. Sure.

Q. And you threw into surplus on the other

(Testimony of L. Hicks Taylor.)

hand \$22,000 as opposed to surplus in the other statement, didn't you, to make them balance?

A. Whenever you make an appraisal and develop a balance sheet—and I want you to know I didn't appraise that, Mr. Forster made the appraisal—I merely prepared this sheet in form—that appraisal was made by Mr. Forster, given to me, and I adjusted it to the figures.

Q. The surplus appraisal was given to you by Mr. Forster?

A. The appraisal of the equipment which would be the surplus figure.

Q. That change in equipment is \$13,000, isn't it, approximately?

A. It is nineteen thousand dollars.

Q. Equipment on the other hand is "88" as opposed to "75", isn't it?

A. I beg your pardon; I thought you were talking about routes. That is right, "75" to "88".

Q. How did you get the difference in surplus, [4216] Mr. Taylor?

Mr. Griffin: Strike that.

Q. (By Mr. Griffin continuing): Will you explain to the Jury what surplus means in your statement?

A. Well, surplus is the accumulation of the profits that is credited to the surplus account, or becomes part of the working capital of your organization.

In other words, if you have a thirty-two thousand dollar capital, and if you accumulated forty-two

(Testimony of L. Hicks Taylor.)

thousand, in surplus, you have a working capital, or a working capital account, of \$74,000 to do business.

Q. Your surplus in A-99 as of December 31, 1938, is \$42,517.23? A. That is correct.

Q. And upon the same date, in Exhibit A-100, it is \$64,695.03, isn't it? A. Yes.

Q. Which is correct?

A. They are both correct. They are both made from the same source of figures.

Q. How much surplus did Mr. Forster have on December 31, 1938, a surplus of \$42,517.23 or a surplus of \$64,695.03? [4217]

A. The record shows here on my—on Schedule 100, sixty-four thousand dollars.

Q. That is the correct one, is it?

A. That is the correct surplus in the books.

Without the books here to verify them, I would say it is correct.

Q. But A-99, showing a surplus of \$42,000, you say, time after time, was analyzed?

A. That is correct. Those figures are correct.

Q. So the surplus in A-49 is correct, then?

The Clerk: A-99.

Q. (By Mr. Griffin continuing): A-99?

Mr. LeSourd: Objected to as argumentative. He testified they were both correct.

The Court: Objection sustained.

Q. (By Mr. Griffin continuing): Mr. Taylor, will you tell the jury how an item upon the same day—take a simple one—of notes payable, differing as



(Testimony of L. Hicks Taylor.)

they do in the two exhibits, can be correct? Just explain it to the jury.

A. Two types of notes in the way you handle your ledger. You might post something to a notes payable account that is an absolute note, signed, and then have a contract come in that hasn't been signed yet, but it goes [4218] into accounts payable, or to drafts payable, or to something else, temporarily. When you analyze it, you combine the two into one account as a note because it has proceeded into the form of a note.

Q. Mr. Taylor, did you analyze at the year-end for the purpose of balancing your books or of making a foundation for income tax returns?

A. Here is a definite set-up of the sheets that were made up, and as far as I know, without the copy of the tax return, this is what the tax return was made from, and, if I remember correctly, this tax return was audited in 1939, and we had no deficiencies as I remember.

Mr. Griffin: May the question be read, please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

The Witness: I think I answered the question.

Mr. Griffin: Will you mark this financial statement for identification, please?

The Clerk: Defendants' Exhibit No. A-101 marked for identification.

(Defendants' Exhibit No. A-101 marked for identification.)

(Testimony of L. Hicks Taylor.)

Mr. Griffin: I am passing some of these other [4219] years.

Q. (By Mr. Griffin): Handing you Exhibit A-101 for identification, I will ask you if this is a financial statement prepared by you and delivered to Mr. Forster as of December 31, 1940?

A. This appears to be a carbon copy of financial statement. It doesn't have any perforations on the edges so that this was probably not delivered to Mr. Forster, but it is probably a copy of the 1940 financial statement.

Q. Prepared by you?

A. I would say it was prepared by me, yes.

Mr. LeSourd: Same objection.

The Court: Objection overruled. A-101 may be admitted.

(Defendants' Exhibit A-101 admitted in evidence.)

Q. (By Mr. Griffin): On Exhibit A-101, financial statement, December 31, 1940, of Issaquah Creamery Company, I notice among assets, Hans Forster contract, \$106,203.90, what is that item, Mr. Taylor?

A. You are kind of testing a fellow's memory in fourteen years. [4220]

Q. That wasn't the purpose of ~~any~~ question.

Mr. Griffin: I will withdraw the question at the present time. Maybe we can get it over the noon hour.

A. I don't know what it is right at the moment.

Mr. Griffin: I will state, if I may, the purpose of

(Testimony of L. Hicks Taylor.)

the question to help the witness, if the Court please.

Q. (By Mr. Griffin): Of practically all these statements, under liabilities, there has been a Hans Forster account, and now, in 1940, under assets, we get an asset account of \$106,000 so that, if you will, perhaps be prepared to tell us about that at the noon recess.

A. You might dig through the records and find the work sheet that ties with that. It might help a little.

Mr. Griffin: Will you mark this one for identification, please?

The Clerk: Defendants' Exhibit A-102 marked for identification.

(Defendants' Exhibit A-102 marked for identification.) [4221]

Q. (By Mr. Griffin): Handing you A-102 for identification, I will ask if this is the profit and loss statement and balance sheet for November 30, 1941?

Mr. Cox: Of Issaquah?

Mr. Griffin: Of Issaquah, yes.

A. On further consideration, it is my work sheet.

The Court: Is it your answer, Mr. Taylor, that that was the profit and loss statement and balance sheet, or just the work sheet?

The Witness: Any time they are on that kind of paper, it is my special paper, you can always tell I made them.

The Court: My question was, you said it was your work sheet, and the question was, was it a profit and loss statement and balance sheet?

The Witness: May I see it? I was just glancing

(Testimony of L. Hicks Taylor.)

at it. I didn't want to delay so that I said "Yes".

(Whereupon, document was handed to the witness.)

The Witness: (Continuing) Yes.

Mr. LeSourd: Same objection, your Honor.

The Court: Has it been offered?

Mr. Griffin: I am offering it, yes.

The Court: Have you the same objection? [4222]

Mr. LeSourd: Same objection.

The Court: The objection may be noted. The objection will be overruled.

(Defendants' Exhibit No. A-102 admitted in evidence.)

Mr. Griffin: I have just one question on this, if the Court please.

Q. (By Mr. Griffin): Exhibit 102 shows a loss for November of \$8,997.26, doesn't it?

A. That is correct.

Mr. Griffin: It is recess time.

The Court: Ladies and Gentlemen of the Jury:

We will now take the noon-day recess, and the Court calls your attention to the admonition given you on similar occasions, and asks that you heed it on this occasion.

You may now be excused until 1:45.

(Whereupon, the Jury retired from the court room.)

The Court: You may step down.

The Witness: Thank you.

(Whereupon, the witness withdrew from the witness chair.)

The Court: Court will recess until 1.45. [4223]

(Testimony of L. Hicks Taylor.)

(Whereupon, at 12:17 o'clock p.m. a recess was had in the within-entitled and numbered cause until 1:45 o'clock p.m., April 20, 1954, at which time, counsel and defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: You have nothing, Mr. Griffin?

Mr. Griffin: No, your Honor.

The Court: You may call the Jury.

(Whereupon, the Jury was returned to the courtroom.)

The Court: You may be seated. It is stipulated that the jury and all defendants are present in the courtroom?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

The Court: You may proceed, Mr. Griffin.

Q. (By Mr. Griffin): Mr. Taylor, over the noon recess, did you recall that this change that you carried Mr. Foster of \$106,000 was at the time of the break-off between Issaquah and Alpine?

A. May I see the exhibit, Mr. Griffin, please?

Mr. Griffin: Exhibit A-101, please.

(Whereupon, exhibit was handed to Mr. Griffin [4224] by the Clerk, and in turn handed to the witness by Mr. Griffin.)

A. (Continuing) It is my opinion that that is the clearing account between the Alpine Dairy and the Issaquah Creamery Company, which would be in the form of an account receivable.

Mr. Griffin: Will you mark this balance sheet of August 31, 1945, please?



(Testimony of L. Hicks Taylor.)

The Clerk: Defendants' Exhibit A-103 marked for identification.

(Defendants' Exhibit A-103 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-103 for identification, I will ask you if this is the balance sheet as prepared by you for Alpine Dairy, August 31, 1945?

A. This appears to be my copy of the balance sheet and profit and loss taken from my private files.

Q. Prepared by you?

A. Prepared by me, yes.

Mr. Griffin: I offer A-103.

Mr. LeSourd: We make the same objection, your Honor. Improper cross-examination and irrelevant and immaterial.

The Court: Objection overruled. A-103 may be admitted. [4225]

(Defendants' Exhibit A-103 admitted in evidence.)

Q. (By Mr. Griffin): A-103, Mr. Taylor, you show as of August 31, 1945,—you show a net worth, Hans Forster, \$37,732.54, don't you, Alpine Dairy account?

A. Yes, that is correct.

Mr. Griffin: Will you mark this sheet, please?

The Clerk: Defendants' Exhibit A-104 marked for identification.

(Defendants' Exhibit A-104 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-

(Testimony of L. Hicks Taylor.)

104 for identification, I will ask you if this is the balance sheet, Alpine Dairy, as prepared by you, December 31, 1948?

Mr. Obenour: 1948?

A. Yes, this appears to be out of my files.

Q. (By Mr. Griffin): Prepared for Mr. Forster of Alpine Dairy, wasn't it?

A. That was prepared from my files. He may have got an original of it.

Q. Did you deliver to Mr. Forster once each month, as you have heretofore testified, a profit and loss statement, [4226] and a balance sheet for these various enterprises? A. That is correct.

Q. And did you make some special ones for your files that you didn't deliver.

A. If I wanted to.

Q. Different from the ones you delivered to Mr. Forster?

A. I didn't say that, Mr. Griffin.

Q. I am asking you.

A. I said I wouldn't say that.

Q. I am asking you if you did?

A. I did not.

Mr. Griffin: All right. I offer A-104.

Mr. LeSourd: Same objection, your Honor.

The Court: Objection overruled. Exhibit A-104 may be admitted.

(Defendants' Exhibit A-104 admitted in evidence.)

Q. (By Mr. Griffin): A-104, Mr. Taylor, as of

(Testimony of L. Hicks Taylor.)

December 31, 1948, Alpine Dairy Balance Sheet, shows net worth in what amount?

A. \$124,654.45.

Q. Thank you; now, it says "Deduct Withdrawals," is that \$34,784.42? [4227]

The Court: What was the amount again?

Mr. Griffin: I inquired, if the Court please. I am not sure of the first figure. I think it is \$34,784.42. I am asking. It has been written over.

A. My interpretation of it, after all the working over of it, would be withdrawals were \$24,784.42.

Q. (By Mr. Griffin): What withdrawals are referred to upon that sheet, Exhibit A-104?

A. To the best of my recollection, it would be estimated income tax payments and possibly the payment in March of the tax for the year 1947 charged to Mr. Forster's personal account.

Q. But nothing upon that balance sheet to show what any single item of withdrawal was, is there?

A. I don't believe that that is essential, on a balance sheet.

Q. I am just asking you, Mr. Taylor; that there is nothing on that balance sheet for those thousands of dollars you have referred to that shows a single item of what a withdrawal is, is that right?

A. This being the Alpine Dairy, individual ownership of Hans Forster, anyone looking at this would know it was Mr. Forster's withdrawals.

Q. Mr. Taylor, there isn't a single item on the sheet as prepared that shows a single withdrawal of a single amount, is there?

(Testimony of L. Hicks Taylor.)

A. Except right there.

Q. Except the total?

A. Yes, that is right.

Q. Where did you get that information?

A. From the ledger.

Q. And where did you get the information from the—to put on the ledger?

A. From the journal.

Mr. Griffin: Now, will you mark for identification this consolidated statement of Hans Forster, December 31, 1948, please?

The Clerk: Defendants' Exhibit A-105 marked for identification.

(Defendants' Exhibit No. A-105 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-105 for identification, I will ask you what that is, Mr. Taylor?

A. Somebody very foreign from me prepared this statement.

Q. You didn't prepare that one?

A. I did not prepare it as I can see nothing about [4229] it that is familiar.

Q. Your testimony is definite, sir, that you did not prepare it?

A. Unless you can bring any other documents that will bring this to my attention. Can you bring me another document?

Q. You have no recollection of having prepared Exhibit A-105 for identification?

A. Not right at the minute, no.

(Testimony of L. Hicks Taylor.)

Q. Did you prepare for Mr. Forster, or for anyone, a consolidated statement of the year-end, December 31, 1948, segregating the assets of Mr. Forster Alpine Dairy, Issaquah Creamery, Finstad and Utgard, Seattle—Renton Ice, and other properties of Mr. Forster?

A. I would say that my files would show whether I prepared such a statement or not and they should be produced in this court room for me to look at.

Q. Mr. Taylor, in preparation for this trial, you have gone over all the files available in the Government's office and in the office of Bogle, Bogle and Gates, haven't you?

A. Mr. Griffin, when I saw those files, I felt ashamed of myself to think that anybody would throw files around like they were a lot of scratch paper. One [4230] of the most disgusting things I ever saw was when I saw those files.

Mr. Griffin: May the question be read, if the Court please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. (Continuing) I would say that the Government made the files that they had—what they did have—a very small portion of what I took to Issaquah—they made them available to us, and the only time that I ever was in Kachlein's office to look at the files was yesterday afternoon.

Q. (By Mr. Griffin): You knew that your attorneys, in preparation for this trial, were in that



(Testimony of L. Hicks Taylor.)

office, and the files made available to them, everything that there was, don't you?

A. You say everything that there was?

Q. Everything that there was, yes.

A. Everything there was that they retained after they got through playing with the files.

Q. Now, going back to my question: have you any recollection as of today in making a consolidated statement as of December 31, 1948, of Hans Forster's [4231] assets, including but segregating, Issaquah Creamery, Alpine Dairy, Finstad and Utgard?

A. As I have testified, if I prepared such a document, it would have been in my files, and you could produce it. I have no recollection of any like that, but if I did, you have it in the files.

Q. And you don't recognize Exhibit A-105 for identification as prepared by you, is that correct?

A. Not at this sitting, I don't remember it.

The Court: A-105 for identification is a document which covers—which would be comparable to the statement you outlined in your question, Mr. Griffin?

Mr. Griffin: Yes, your Honor. It is headed "Hans Forster Consolidated Statements, 12-31-48".

Q. (By Mr. Griffin): Mr. Taylor, did you ever make for Hans Forster a consolidated statement of his business interests?

A. May I see that before I make an answer?

(Whereupon, document was handed the witness by Mr. Griffin.)

(Testimony of L. Hicks Taylor.)

A. (Continuing) I cannot recollect without working papers.

Mr. Taylor, if you were to make a consolidated statement as of Hans Forster, December 31, 1948,—and [4232] you are the man that was keeping the ledger—you wouldn't need any working papers, would you?

A. Mr. Griffin, every paper that I prepared had working papers to prove any changes that might have been made on the statement. If that statement was prepared, there are working papers in my handwriting that will show that very same thing in pencil writing.

Q. My question is:

That, having kept the ledger, you didn't require any working paper to take off a financial statement at that year-end, did you?

A. I always used working papers.

Q. And you consider the working paper an essential part then of the bookkeeping system that you maintained, is that right?

A. I might say they are very essential to your cross-examination.

Q. You considered the working papers, to which you have referred, a part of the books, didn't you?

A. Part of the working papers that are necessary to answer questions that you are putting to me.

Q. And, necessarily, to anyone inspecting the books and records maintained by you to be able to analyze them, is that correct?

(Testimony of L. Hicks Taylor.)

A. They would be very helpful, extremely helpful. [4233]

Q. Now, having begun with 1932 on the balance sheets and profit and loss statements that you prepared from year to year, and down into 1945, was there any time, Mr. Taylor—can you give a single statement that you delivered to Mr. Forster—balance sheet—upon which he could depend as to what his actual and true assets and true liabilities were?

A. Absolutely. The statements delivered to Mr. Forster showed exactly what the ledger showed, and they were correct, so far as all the information that I received.

A. And in going back to the December 31, 1935, which of the two statements referred to there would your ledger show?

A. Mr. Griffin, in preparing balance sheets and profit and loss statements, there are two distinct principles to work on; you work first to fit the regulations of the United States Treasury Department. That is your first and foremost duty. Number one.

Number two: a man who is fighting critical financial conditions must prepare financial statements for banks and credit institutions to show the nearest to his net worth that he possibly can the true value of his assets. Many times, appraisals are necessary to develop that, and that way, sometimes credit statements, [4234] financial statements, to banks, while they are absolutely true, will be different from the Federal Income Tax Statement.

(Testimony of L. Hicks Taylor.)

Q. You were conscious, then, were you, in preparing these statements, that you owed an obligation to the United States Government to prepare them correctly?

A. They were prepared correctly.

Q. My question is:

You were conscious of that obligation, were you?

A. I took care of it, yes, sir.

Q. Were you conscious of your obligation to your client, Hans Forster, that you should make true statements to the Government, or anyone?

A. I think that can be answered this way: there are two people that should be conscious of making statements to the United States Government.

Mr. Griffin: Your Honor, may the question be read?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. (Continuing) I so did, to the best of my ability. [4235]

Q. (By Mr. Griffin): And you were conscious of that obligation as an accountant of Mr. Forster, is that right?

A. That was taken care of, yes, sir.

Q. Now, going back to my other question:

Which of the statements of December 31, 1935, one of which you delivered to the Bank, Peoples, and the other which you delivered to the Stanwood Bank—which of those statements showed upon your ledger?

(Testimony of L. Hicks Taylor.)

Mr. LeSourd: Now, if your Honor please, we can go over and over this again, and I will object to it as repetitious. He said one of them reflects the basis for these assets for tax purposes, and the other reflects an appraisal of the correct form for credit purposes. It is simply repetitious, and taking time.

The Court: I don't believe it is clear. The Court will overrule the objection.

You are referring, Mr. Griffin, are you specifically to the one year?

Mr. Griffin: Yes, the one year 1935, Exhibits A-95 and Exhibit 65.

Mr. LeSourd: Will you hand the witness the exhibits so that he knows what he is talking about?

The Witness: Also the ledger for 1935, please.

The Court: The ledger is not in evidence, is that correct?

Mr. Griffin: The ledger is not in evidence, no, your Honor.

Q. (By Mr. Griffin): Mr. Taylor, did you deliver the ledger kept by you to the Issaquah Creamery?  
A. Absolutely.

Q. For the year 1935?

A. From 1928 clear through to 1950, in February.

Q. How about including March 31, 1950?

A. It is possible.

Q. Do you recall that you made a balance sheet for March 31, 1950?  
A. I believe——



(Testimony of L. Hicks Taylor.)

Q. (Interposing) And profit and loss statement?

A. I believe I made one, February 28th.

There may be March, also. I am not positive.

Q. Handing you Exhibits A-95 and A-65, which of those statements was taken from your ledger maintained for that period?

A. They both were.

Q. They both were; very well. Each to a bank, weren't they; Bank of Stanwood and Peoples Bank?

A. I think I testified to that, yes. [4237]

Q. So that they were each written then, for the same purpose, weren't they?

A. Credit purposes, yes.

Q. Why would they so disagree, if the evidence shows, and they show, the one from the other, then?

A. The correct statement to the bank at Stanwood was made for credit purposes based on the market value. The other to the Peoples Bank was just a straight take-off.

Q. What do you mean, a "straight take-off"?

A. A take-off of the record.

Q. And the other one, do I understand, you manipulated?

A. We placed the value of the assets at the market, and no manipulation.

Q. Which figures did you use for tax purposes, then?

A. I can't tell you which of those went on the tax return, because they are not relative to it.

(Testimony of L. Hicks Taylor.)

Q. The statement of profit and loss for the year ending December 31, 1935, is not relevant?

A. Neither one of those statements have anything to do with the tax return.

Q. Did you adjust figures for the purpose of tax returns? [4238]

A. If they were necessary to make the profit correctly.

Q. Mr. Taylor, how can you adjust cash on hand for the purpose of any return?

A. There are many, many ways of doing that in the course of a statement. There might be warrants showing in the cash account. There might be some N.S.F. checks being held in the cash account to be transferred to another account. There are various ways a cash account can be adjusted to a true actual cash on hand.

Q. What was the true, actual cash on hand, December 31, 1935, where you show debit, \$6,213.76 in one and in the other, cash on hand, \$2,197.93?

A. I believe I testified to that this morning.

Q. Now, in addition to preparing the income tax returns for Mr. Forster, and his corporations, and the family and the excise tax returns to the State, you also prepared the excise tax returns for the City of Seattle, didn't you?

A. They all went in a sequence, yes.

Q. And you had the handling for Mr. Forster's corporations of the payments for the annual license fees for the State of Washington, didn't you?

A. Annual license fees?

(Testimony of L. Hicks Taylor.)

Q. Corporate license fees? [4239]

A. Well, I presume I filled them out and mailed them to Hans to mail a check in. The secretary generally does that.

Q. Did you fill them out for Mr. Forster to mail a check in, or did you make the checks out?

A. Oh, if my recollection is right, I mailed them to Issaquah and the checks were mailed from there.

It is possible that they mailed the check back to me, and I mailed it in. I don't know. That is trying to remember, 'way back.

Q. The receipts for corporate taxes, Issaquah Creamery Company, went to you at 501 Textile Tower, didn't they?

A. Oh, yes; they were mailed to me. Yes, sometimes they would be sent in, too.

Q. And you attempted—you were at times in default in the payment of the corporate license fee, weren't you?

A. Not unless the check was delayed from Issaquah.

Q. Were you in default at times for payment of your license fees to the State of Washington?

A. Not unless Issaquah was slow in mailing it to me.

Q. You, also, Mr. Taylor, took care of the conferences with, and in making out the detailed list of [4240] personal property for the King County Assessor, King County?

A. I may have done that. I did a lot of things.

(Testimony of L. Hicks Taylor.)

Q. You did that through all the years, didn't you?

A. Not all the years. The last few years Mr. Forster handled it himself.

Q. You did it for a great many years, sir?

A. I would say so, yes.

Mr. LeSourd: It seems, if your Honor please, we are going farther and farther afield. I don't know whether my sustaining objection is still remaining to this.

Mr. Griffin: This is a different line.

The Court: I wouldn't think so.

Mr. LeSourd: Then I wish to raise the same objection to this, irrelevant and immaterial and improper cross-examination.

Mr. Moriarty: We join in that objection. It is going to personal property taxes.

The Court: Is there a question pending here?

Mr. Griffin: No, your Honor.

May I suggest, he testified on direct to the great amount of work he did, and what he wasn't paid, and I am showing a great deal more work. [4241]

Mr. LeSourd: If that is Mr. Griffin's purpose, I will stipulate to it, but we are going into extraneous things.

The Court: As soon as the question is put, you may object.

Mr. LeSourd: I tried to, but it was answered before I could get my objection in.

Q. (By Mr. Griffin): You filed the corporate—

(Testimony of L. Hicks Taylor.)

you prepared the incorporation papers for Simonson and Forster, did you not?

A. It is my recollection that I copied the Issaquah Creamery charter, and mailed it in because they didn't want to hire an attorney. I received no fees for it.

Q. My question was: you prepared the corporation papers for Simonson and Forster?

A. I so stated.

Q. You prepared the pricing under O.P.A., didn't you?      A. Will you state for whom?

Q. Issaquah Creamery?      A. I did not.

Q. You didn't have anything to do with that?

A. I may have typed up something, but I [4242] knew nothing about costs or prices.

Q. By the way, speaking about your knowing anything about costs and pricing, you typed up the basic report to the Office of Price Administration in regard to the pricing of Issaquah Creamery, didn't you?

A. In what year? You might let me see the document. Maybe I could tell you better.

The Court: Mr. Taylor, the questions are put and counsel will object if they think it is not proper, and you may give your answer and explain it, if you wish, but this is not a conversation you are carrying on.

Q. (By Mr. Griffin): Do you recall that you prepared the O.P.A. pricing, Mr. Taylor?

A. No, I do not, without seeing the documents.



(Testimony of L. Hicks Taylor.)

The Clerk: Defendants' Exhibit A-106 marked for identification.

(Defendants' Exhibit No. A-106 marked for identification.)

Q. (By Mr. Griffin): Did you obtain additional gasoline during O.P.A. period for your own use due to your work at Issaquah Creamery? [4243]

A. Yes, it appears to me they moved me from an "A" card to a "B" card so that I could run out to Issaquah.

Q. Handing you A-106 for identification, I will ask you if you dictated the original of that?

A. Yes, I wrote this up. The copy of it you have made sometime.

Mr. LeSourd: May I ask Mr. Griffin why the actual carbon copy wasn't brought into evidence, rather than the copy having been made of it?

Mr. Griffin: Because that is the only document that I found in connection with that particular matter in the file.

Mr. Cox: I show a letter on the same subject on the Alpine letterhead.

Mr. Griffin: This says "copy," and that is the reason. I searched certain of these boxes, and this is the only one I found. That is answering your question,—the only one I found.

Mr. LeSourd: The witness identified it as a copy, so that I will not object to it on that ground. I think it is completely irrelevant and immaterial, and I object to it on that ground, and improper examination.

(Testimony of L. Hicks Taylor.)

Mr. Moriarty: The Government joins in the objections and asks the Court to note the date. [4244]

The Court: I am inclined to sustain the objection.

Mr. Griffin: Does not your Honor—it is offered as an impeaching document of the witness's testimony. I am concerned only with Mr. Taylor's own dictation of the first half of it. I am not concerned about getting gasoline at all, but only his description of himself, and his relationship.

The Court: In view of the nature of the application and all, I believe it is the type of letter, and the ostensible purpose of a letter of that character might not serve to be particularly relevant to the issue here involved.

Mr. Griffin: May I ask the question if he did not describe himself as——

Mr. LeSourd: (Interposing) Just a moment.

Mr. Griffin: I will not make a statement that is either offensive or that——

The Court: (Interposing) You may proceed.

Mr. Griffin: May I ask a question incorporating his own description of himself, as to whether he so did?

The Court: I believe not, Mr. Griffin. I think that would be subject to the same objection that I believe may be made properly to this exhibit. [4245]

Mr. Griffin: Hold this one out, because I want it later.

Q. (By Mr. Griffin): You handled for Mr. Forster, did you not, and drafted milk agreements with

(Testimony of L. Hicks Taylor.)

the Seattle Milk Shippers' Association and Issaquah Creamery?

A. Without copies of documents, I couldn't testify to it. I am not sure.

Q. You advised Mr. Forster in an advisory capacity, did you not, as to whether he should sign agreements with the Seattle Milk Shippers' Association?

A. That is a rather new departure. I didn't know that I advised him about how he should sell or buy milk.

Mr. Griffin: Will you mark this for identification, please?

The Clerk: Defendants' Exhibit No. A-107 marked for identification.

(Defendants' Exhibit No. A-107 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-107 for identification, I will ask you what that is, Mr. Taylor?

A. It is my recollection that this was typed, and this agreement is the property of the Seattle Milk Shippers' [4246] Association, and this was typed, and handed to me, but never went beyond that, and remained in my files, as far as I can recollect it.

Mr. Griffin: Will you mark this sheet for identification?

The Clerk: Defendants' Exhibit A-108 marked for identification.

(Defendants' Exhibit No. A-108 marked for identification.)

(Testimony of L. Hicks Taylor.)

Q. Handing you Exhibit A-108 for identification, Mr. Taylor, is this your handwriting?

A. You missed one. That is not my handwriting.

Q. None of it?

A. No. That I see on there, at all.

Q. Sir?

A. I don't see my handwriting on there, at all.

Q. Did you attend any meetings of the Seattle Milk Advisory Board?

A. Yes, I was the buffer for Mr. Forster. I went and attended a number of times.

Q. Correspondence from the Seattle Milk Industry Board was directed to you?

A. Sometimes, yes.

Q. And the same is true of the Seattle Milk Shippers' Association? [4247]

A. So far as I know, they were both the same. I am not sure.

Q. And now, down until after you were sentenced, the relationship between you and Mr. Forster was very close, was it not?

A. In a business way, to some extent, yes.

Q. In a business way?                      A. That is right.

Q. Not in a social way?                      A. No.

Q. Well, for how many years did you have lunch at the home of Mr. Forster when you were out at Forster?

A. That hardly makes sociability. It was just for convenience.

Q. My question was:

(Testimony of L. Hicks Taylor.)

For how many years did you have lunch with Mr. Forster in his home at Issaquah?

A. Well, offhand, on all the times that I went to Issaquah.

Q. And you have testified that during those luncheons, you did not discuss business, haven't you?

A. Not to any great extent did we ever discuss business.

Q. Well, if your relationship was that strictly of business and not social, what did you discuss, if not [4248] business?

A. Oh, I don't know; various things that went on around the country.—Basketball, I think the last few years, because that was the principal subject of the Alpine Dairy for about ten years.

Q. The principal subject of the Alpine Dairy for about ten years was basketball, is that right?

A. That is right.

Q. Not milk?           A. Not at his home, no.

Q. Among other things, Mr. Taylor, you loaned money from time to time to the Issaquah Creamery, did you not?

A. Well, unfortunately, my financial position was much better than Mr. Forster's, so I did occasionally help him slightly.

Q. Slightly, you say; as of 1939, do you recall a loan that you made, \$5,500, to Issaquah Creamery?

A. It is possible.

Q. You did, didn't you?



(Testimony of L. Hicks Taylor.)

A. I don't just recollect. If I saw the note, it would refresh my mind.

Mr. Griffin: Excuse me a second.

Will you mark these three notes, if you will, please, as one exhibit? [4249]

The Clerk: Defendants' Exhibit A-109 marked for identification.

(Defendants' Exhibit A-109 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-109 for identification, I will ask you what those are?

A. Those are loans that I made to Mr. Forster.

Q. That is, notes evidencing loans?

A. Notes evidencing loans, yes.

Q. And the loans that you made were based more upon friendship and necessity, were they not, than the financial worth of the Issaquah Creamery at that time?

A. The early loans were made because of financial lack. The \$5500 loan I don't have particular memory of. It only ran for 30 days. Just what it was for, at this time—it is only a 30-day loan.

Mr. Griffin: I offer A-109 simply because the witness on the stand asked to see the notes.

Mr. LeSourd: We have no objection.

The Court: If there is no objection, Exhibit A-109 may be admitted.

(Defendants' Exhibit A-109 admitted in evidence.)

Q. (By Mr. Griffin): During this same period,

(Testimony of L. Hicks Taylor.)

1938-39, Mr. [4250] Forster was making loans to the Issaquah Creamery, was he not?

A. It is possible.

Q. These loans were discussed with you?

A. Possibly some of them.

Q. You prepared the notes, did you not, representing the loans?

A. I do not recollect for sure. I may have.

Mr. Griffin: Will you mark these two notes for identification, please?

The Clerk: Defendants' Exhibit A-110 marked for identification.

(Defendants' Exhibit No. A-110 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-110 for identification, I will ask you what those two documents are?

A. One note is dated July 6, 1938, for \$20,000 loaned by Mr. Forster to the Issaquah Creamery Company and marked "paid"; and another dated January 3, 1939, for \$7,000 to the Issaquah Creamery Company.

Q. Your signature as secretary on each one?

A. That is correct.

Q. Did you prepare those notes?

A. I did. [4251]

Q. Was interest paid upon those notes?

A. I presume it was. It would have gone through the journal if it was.

Q. Did you include interest to Mr. Forster in the income tax return upon those notes?

(Testimony of L. Hicks Taylor.)

A. Yes, if he supplied it to me.

Q. My question is: Did you?

A. Yes, if he supplied it.

Q. Did he supply it?           A. I don't know.

Q. You knew about the notes, didn't you?

A. Yes, I knew about the notes.

Q. Why didn't you return the interest as income to Mr. Forster whether he supplied it or not if you knew about the notes?

Mr. LeSourd: If your Honor please, we object, first, to the form of the question, and, secondly, this matter is completely irrelevant and immaterial and not proper cross-examination.

Mr. Griffin: I will withdraw that question.

Q. (By Mr. Griffin continuing): Mr. Taylor, you also handled the purchase of office equipment for Mr. Forster, Alpine Dairy, Issaquah Creamery, didn't you?

A. I recommended the purchase of office equipment. [4252]

Q. And you purchased office equipment on your own signature loan?

A. I may have, but Issaquah paid for it.

Q. Yes, but you did the purchasing of the necessary office equipment, didn't you?

A. If it was necessary, yes, after Mr. Forster approved it.

Q. And you prepared the form of sales books and vouchers that were to be used, didn't you? Issaquah Creamery and Alpine Dairy?

(Testimony of L. Hicks Taylor.)

A. Most assuredly I did. The record shows it plainly.

Q. You also handled the matter of contracts and drafting of contracts on the sale of equipment by the Issaquah Creamery, didn't you?

A. What is this you are saying again? Will you ask that question once more?

Q. Issaquah Creamery sold equipment from time to time, did it not—freezers, for example?

A. And you say I prepared those?

Q. My first question is:

Issaquah Creamery was in the business—part of its business—in selling freezers, wasn't it?

A. Not generally, no. If I prepared any, it was [4253] very few.

Q. Do you recall preparing any?

A. I might have prepared one or two 'way early.

Q. You did prepare them, didn't you?

A. It is possible.

Q. You also handled the matter of garnishment, did you not, and collections?

A. It is possible that when we first started at Alpine, that I may have handled the return of them, to talk to the attorneys to get them cleared up.

Mr. Griffin: It is recess time.

The Court: Ladies and Gentlemen of the Jury:

We will recess now, and the Court calls **your** attention to the admonition given you on similar occasions, and asks that you heed it on this occasion.

You may now be excused.

(Testimony of L. Hicks Taylor.)

(Whereupon, the Jury retired from the court room.)

(Whereupon, at 2:47 o'clock p.m. a recess was had in the within-entitled and numbered cause until 3:03 o'clock p.m. April 20, 1954, at which time, Counsel and defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: You may call the Jury.

(Whereupon, the Jury was returned to the court [4254] room.)

The Court: You may be seated.

It is stipulated that the Jury and all Defendants are in the court room?

Mr. Moriarty: Yes, your Honor.

Mr. Griffin: Yes, your Honor.

The Court: You may proceed, Mr. Griffin.

Mr. Griffin: I understand I did not offer Exhibit A-110 for identification, which are the two notes from Issaquah Creamery Company to Hans Forster. I now offer them.

The Court: If there is no objection, they may be admitted.

(Defendants' Exhibit No. A-110 admitted in evidence.)

Mr. Griffin: I may describe them, if the Court please. One note is dated July 6, 1938, \$20,000 payable two years, Issaquah Creamery Company to Hans Forster, signed Hans Forster, President, L. Hicks Taylor, Secretary; and the other, January 3, 1939, \$7,000, ditto.



(Testimony of L. Hicks Taylor.)

Q. (By Mr. Griffin): Now, did Mr. Forster give you the amount of interest paid on those notes, Mr. Taylor? A. I do not—— [4255]

Mr. LeSourd: (Interposing) Objected to as irrelevant and immaterial.

The Court: Objection sustained.

Q. (By Mr. Griffin): Did you include the interest paid upon those notes?

Mr. LeSourd: Same objection.

Mr. Griffin: Just a moment.

Mr. LeSourd: Excuse me.

Q. (By Mr. Griffin continuing): In Mr. Forster's tax return?

Mr. LeSourd: Objected to as irrelevant.

The Court: Objection sustained.

Q. (By Mr. Griffin continuing): You handled the matter and advised on the matter of leasing various properties by Mr. Forster, didn't you, Mr. Taylor? A. It is possible.

Q. Is it possible, or is it a fact?

A. Without a statement of what, I wouldn't remember.

Q. You have no recollection, then, of assisting, or drafting, in any leases for Mr. Forster? By "Mr. Forster" I mean any of his enterprises.

A. I don't recollect without having my memory [4256] refreshed a little as to what they were.

Q. Did you have anything to do—put it this way: Did you take care of the matter of claims under insurance policies, damage to equipment and trucks?

(Testimony of L. Hicks Taylor.)

A. I think Mr. Meek handled all that.

Q. Did you take care of the matter of the licensing of trucks?

A. I think Mr. Meek testified that he handled all that. I don't believe I ever obtained a license for a truck that I remember.

Q. Did you—were the insurance policies on the trucks deposited with you?

A. I haven't any recollection of them being.

Q. Were you advised from time to time when trucks had been disposed of so that you could obtain a correct inventory?

A. I believe that Mr. Meek now and then would contact me if a truck was disposed of, and we would check the information.

Q. On October 5th of 1949, did you have a conference with Mr. Hagstrom in regard to a proposed insurance plan for Mr. Forster?

A. It is my recollection that I did, yes.

Q. In what capacity were you acting in that connection? [4257]

A. I believe, if I remember correctly, that Mr. Forster didn't want the policy, and asked me to kind of diplomatically tell him so.

Q. Did you? A. Well, I did my best.

Q. Did Mr. Forster ever purchase any real estate about which he did not confer with you?

A. Oh, yes. Considerably.

Q. What?

A. Oh, all the real estate around the Alpine

(Testimony of L. Hicks Taylor.)

Dairy. He handled that himself, or through somebody else. I didn't know about it.

Q. I think you testified that you advised Mr. Bezeau of Alpine Dairy to send these discount checks to Issaquah. That is because they had not been cashed, is that correct?

A. To return them to Mr. Erickson, yes.

Q. At Issaquah? A. Yes.

Q. For what purpose, Mr. Taylor?

A. Cancellation.

Q. Did you instruct Mr. Erickson how to cancel a check that had not been cashed?

A. I didn't need to. He knew how.

Q. And you knew how? [4258]

A. I don't know.

Q. Do you know how?

A. I think I could accomplish it, yes.

Q. And uncashed checks payable to a third party should be cancelled, should they not?

A. Correct.

Q. How? A. By destroying it.

The Clerk: Defendants' Exhibit No. A-111 marked for identification.

(Defendants' Exhibit No. A-111 marked for identification.)

Q. (By Mr. Griffin): You wrote all the checks on Arctic Gardens, didn't you, Mr. Taylor?

A. Quite correct.

Q. Handing you Exhibit A-111 for identification, what is that?

A. That is a check to the Peoples National

(Testimony of L. Hicks Taylor.)

Bank, written by me on April 30, 1947, and it is my opinion that that is marked "void," is it not?

Q. What is the amount?

A. \$3,934.51. I might explain that in handling merchandise with the Peoples Bank, it was necessary to release warehouse receipts. They called me on a warehouse [4259] receipt, and I wrote this check according to their instructions. When it cleared, it was for less money and they charged the account with it and returned this check to me, and I voided it.

Mr. Griffin: I offer A-11 for identification.

The Clerk: A-111.

Mr. Griffin: A-111, pardon me.

Mr. LeSourd: We fail to see the materiality of it, your Honor, and object to it on that ground, and improper cross-examination.

The Court: I am inclined to sustain the objection. Does it have relationship only to the last answer?

Mr. Griffin: No. To the interrogation that Mr. Erickson knew how to void checks, and he knew how to void checks, and he says this check is voided. I am curious to find out how he voided it.

The Court: In view of the objection, the Court will sustain the objection.

Mr. Griffin: This, of course, is within the period.

The Court: Yes, but it has nothing to do with the issue involved, only as to his testimony regarding voiding of a check: is that correct?

Mr. Griffin: No, he testified he ordered [4260]

(Testimony of L. Hicks Taylor.)

Bezeau to send the discount checks upon which the Government is relying to Issaquah, and evidence develops that those checks were not voided.

The Court: The fact he may have not voided one of his own checks wouldn't mean he didn't know how.

Mr. Griffin: Well, only to the extent he is the accountant and said Erickson knew how. If he didn't do his own——

The Court: (Interposing) Well, the Court will sustain the objection.

Mr. Griffin: All right.

Q. (By Mr. Griffin): You drew the agreement, did you not, as far as Arctic Gardens was concerned, between Mr. Forster and Mr. Brehm?

A. I think, if you will look up the records, you will find that Leon Wolfstone formed that corporation and took care of the legal matters pertaining to it.

Q. I didn't refer to the incorporation, but to the agreement between Mr. Forster and Mr. Brehm; did you draft that agreement?

A. I don't know, unless you can refresh my memory.

Mr. Griffin: Will you mark this—excuse me, a minute. [4261]

(Whereupon, there was a brief pause.)

Mr. Griffin: (Continuing) Will you mark this document for identification, please?

The Clerk: Defendants' Exhibit A-112 marked for identification.



(Testimony of L. Hicks Taylor.)

(Defendants' Exhibit A-112 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-112 for identification, what is that, Mr. Taylor?

A. I am afraid it doesn't give me any thought of what it covers.

Q. Whose handwriting is it, Mr. Taylor?

A. This is my handwriting, but I don't recollect what it ties onto.

Q. The handwriting and the figure below the tape are yours?

A. Oh, yes. Those are mine, but I don't recollect what it ties onto.

Q. Would it refresh your recollection if it is suggested that the adding machine tape is taken from the building cash register, or the cash register building account?

Mr. LeSourd: Objection, your Honor, to matters that are not proper cross-examination and [4262] irrelevant and immaterial.

The Court: This comment is to refresh your recollection.

Mr. LeSourd: The comment indicates it is going into a matter not covered on direct, and irrelevant and immaterial to this case.

The Court: I am not sufficiently informed at this time to know.

Mr. Griffin: It is preliminary.

A. No, it doesn't clear anything, to me.

The Court: This is merely an answer to the question about refreshing recollection.

(Testimony of L. Hicks Taylor.)

Mr. Griffin: Yes.

Will you mark for identification this top, which I tore off?

The Clerk: Defendants' Exhibit No. A-113 marked for identification.

(Defendants' Exhibit No. A-113 marked for identification.)

Q. (By Mr. Griffin): Handing you A-113 for identification, Mr. Taylor, which I tore off of this before I handed it to you, that is not in your handwriting, is it?

A. No, this is not in my handwriting.

Q. Does it refresh your recollection now as to what [4263] the tape on A-112 is above your handwriting?

A. I would assume from this that it had something to do with the building account, but I can't say positively because I do not remember the figures.

Q. What was to be the—you had a conference, did you not, in regard to the building account with the Peoples Bank?

Mr. LeSourd: Objected to, your Honor, as improper cross-examination and irrelevant and immaterial.

The Court: This is the building account?

Mr. Griffin: Of the Alpine Dairy on which testimony in chief by the witness from the Peoples Bank showed that they suggested that a separate building account be set up. That was the Government's case.

(Testimony of L. Hicks Taylor.)

Mr. Moriarty: We join in the objection, your Honor. Immaterial, and improper cross-examination.

Mr. Griffin: It is preliminary to what I want to reach.

Mr. LeSourd: Well, what he wants to reach is obviously in connection with an utterly immaterial matter that wasn't covered in direct examination at all.

The Court: Well, the fact that it may not have been covered doesn't mean it wouldn't be relevant. I haven't any knowledge of what the matter ultimately shown here is, and the Court will overrule the objection on the [4264] representation it is a preliminary question.

Q. (By Mr. Griffin): Mr. Taylor——

Mr. Griffin: Strike that. I offer Exhibit A-112 at the present time, limited solely to the handwriting identified by the witness.

Mr. LeSourd: We object to it, your Honor, on the ground there has been no identification that would indicate the relevancy or materiality of it, and improper cross-examination.

Mr. Moriarty: We join in the objection, if your Honor please.

The Court: Sustain the objection.

Mr. Griffin: Would your Honor look at the identified portion?

(Whereupon, proposed exhibit was handed to the Court by Mr. Griffin.)

The Court: I don't see any relevancy, Mr. Grif-

(Testimony of L. Hicks Taylor.)

fin. If you wish to discuss it in the absence of the Jury at a later time, the Court will hear from you, if you wish to re-offer it then.

Mr. Griffin: I am dealing with one of the most relevant things in the case, and that is Account 198. That is why these questions have been preliminary, to reach that point. [4265]

Mr. LeSourd: Well, I say, if your Honor please, if that was so important, Counsel should have shown it as part of his case. To drag something in on cross-examination that this witness cannot identify to show relevancy is beyond the scope of the direct examination.

The Court: Well, I think I will adhere to the ruling at this time, and hear the matter when we recess if you wish to make a further showing, Mr. Griffin.

Mr. Griffin: Very well.

Q. (By Mr. Griffin): You spoke of appraisals of equipment and property, Mr. Taylor. In connection with those appraisals, there were disputes, were there not, as to the cost of appraisals?

A. Nothing that I remember anything about.

Q. As a matter of fact, you handled the disputes?

A. I have forgotten it, if I did.

Q. You drafted the agreements, did you not, under which Green Pastures was acquired by Mr. Forster?

A. I don't recollect unless you can refresh my memory.

(Testimony of L. Hicks Taylor.)

Q. You handled, did you not, the matter of the application for license to the State of Washington and the Federal Government in connection with the handling [4266] of wine and beer?

A. For whom?

Q. Issaquah Creamery Company.

A. It is possible that I might have participated in it.

Q. You have no recollection?

A. I don't remember, offhand, no.

Mr. Griffin: Will you mark these two sheets, please?

The Clerk: Defendants' Exhibit A-114 marked for identification.

(Defendants' Exhibit A-114 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-114 for identification, I will ask you what that is?

I call your attention to the back sheet. Turn it over, if you will. There is some writing on there.

A. Yes; that is dated March 15, 1936.

Q. Does it refresh your recollection?

A. Yes, it does, Mr. Griffin.

Q. You did handle the matter?

A. Yes, I remember it now.

Mr. Moriarty: The Government objects to the introduction. [4267]

Mr. Griffin: I haven't offered it.

Mr. Moriarty: Oh, you haven't. We will object, then.



(Testimony of L. Hicks Taylor.)

Mr. Griffin: I will not offer it. I simply used it to refresh recollection.

Q. (By Mr. Griffin): Now, Mr. Taylor, in addition to the accounting work that you did from the time that Mr. Forster became associated with Issaquah Creamery to and including March 31, 1948,—pardon me, 1950,—you assisted Mr. Forster in these matters that you testified to on direct examination and upon cross-examination, didn't you?

A. A good many of them, yes.

Q. Was there any accountant upon whom Mr. Forster relied during that entire period of time except L. Hicks Taylor?

A. I am sure he relied upon me, yes.

Q. You took pride, did you not, in being associated with the Issaquah Creamery Company?

A. I most assuredly did.

Mr. Griffin: Will you mark this, please?

The Clerk: Defendants' Exhibit A-115 marked for identification.

(Defendants' Exhibit No. [4268] A-115 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-115 for identification, I will ask you what that is?

A. This is a—I don't know what you call it—a list of recipes and a picture of the Issaquah Creamery Company, and I even have my picture in it. It is a good ad.

Q. A brochure, would you say, of the Issaquah Creamery Company?

A. You may call it what you like.

(Testimony of L. Hicks Taylor.)

Q. What do you mean, it is a good ad, Mr. Taylor?      A. A good ad.

Mr. Moriarty: If it is offered for impeachment purposes, I think Counsel ought to make a statement, and the only purpose in which it might be offered is on impeachment purposes.

Mr. Griffin: The only purpose for which it is offered is to show the relationship of Mr. Taylor to the Issaquah Creamery Company.

Mr. Moriarty: He already admitted that.

Mr. Griffin: Not as I understand his testimony. Excuse me a second. At the bottom of the first page and [4269] turning over to the next page, if the Court please.

Mr. Moriarty: That is also 1942, if your Honor please.

(Whereupon, proposed exhibit was handed to the Court by Mr. Griffin.)

The Court: I am inclined to sustain the objection, Mr. Griffin.

Q. (By Mr. Griffin): You drafted Mr. Forster's first will for him, didn't you, Mr. Taylor?

A. I believe so, yes, a simple will.

Q. You were the named executor in the will that was in existence until after these troubles arose, weren't you?

A. It is possible when Mr. Forster left for Switzerland, or when he planned it, he didn't have a will of any kind. I suggested him to an attorney and have one filled out, but he didn't care to, and I

(Testimony of L. Hicks Taylor.)

had a simple will in my office that I filled out for him to sign.

Q. When was it that Mr. Forster went to Switzerland that you are referring to?

A. Well, possibly around 1937 and back in there. I don't remember the date of the preparation of the will.

Q. Your relationship with Mr. Forster was so [4270] close that you wired him to cable you if he was safe on landing, didn't you?

A. I believe that in 1937, it is possible that that is the case. I am not sure.

Mr. Griffin: Will you mark this cable, please?

The Clerk: Defendants' Exhibit A-116 marked for identification.

(Defendants' Exhibit A-116 marked for identification.)

Q. (By Mr. Griffin): Handing you A-116 for identification, and referring only to this cable, I will ask you what that is, Mr. Taylor?

A. It must have been something connected with me. My name is all over it, but I haven't written any of it.

Q. No?           A. So——

Q. (Interposing) Does it refresh your recollection that you sent a cable to Mr. Forster inquiring whether he was safe in Switzerland?

A. It does refresh my recollection to this extent: the war had commenced over there, and we had information here that Forster might not get out of [4271] Switzerland, and the group of us got

(Testimony of L. Hicks Taylor.)

together and decided we should try to determine what his condition was, and I believe that was the reason for this cable.

Q. Signed by you?

A. Well, it must have been, although that is not my writing.

Q. It would be 'phoned in?

A. Possibly. I don't recollect that.

Q. And at that time, you held a power of attorney from Mr. Forster during his absence, didn't you?

A. Without seeing it, I couldn't say, for certain. I am not positive of that.

Q. You had charge of his business while he was gone on that trip?

A. There were three or four parties who had charge of various departments at the time, if any difficulties arose. I was to sit in, and see what was the best thing to do.

Q. By the way, you mentioned, with reference to an Arctic Gardens check of fifty dollars and seventeen cents, that it would have cost you three cents to send the 17 cents; do you recall?

A. Yes, I remember very well.

Q. As a matter of fact, that was an account at the Peoples National Bank of Washington, wasn't it? [4272]

A. Yes.

Q. You also had an account in the National Bank of Commerce, didn't you?

A. I believe we did have a small account; I am not sure.

(Testimony of L. Hicks Taylor.)

Q. Do you recall that you closed out that account, as well?      A. It is possible.

Q. And didn't remit?

A. How much was it?

Q. I am asking if you recall?

A. I don't remember that, no.

Mr. Griffin: Will you mark this for identification, please?

The Clerk: Defendants' Exhibit A-117 marked for identification.

(Defendants' Exhibit A-117 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-117 for identification, I will ask you what that is?

A. The Arctic Gardens had a small account in the National Bank of Commerce, the reason being that this combination of the Arctic Gardens and Mr. Brehm dealt with the National Bank of Commerce and Mr. Forster with the [4273] Peoples Bank, and they each had their loans respectively in the banks and it was necessary to carry a small balance there to take care of interest payments and possibly demand notices and we carried a small account for a small time, and then in 1948, when it was not necessary to carry that account, I closed this out and from the looks of the check, credited it to my services account. It is \$64.57.

Q. The question, Mr. Taylor,—can we put it this way: that this is a statement of the National Bank of Commerce with a cancelled check attached?

A. That is correct, made out to me.



(Testimony of L. Hicks Taylor.)

Q. Made out by you to yourself, is that right?

A. That is right.

Mr. LeSourd: We have no objection.

Mr. Griffin: I offer A-117.

Mr. Moriarty: No objection.

The Court: A-117 may be admitted.

(Defendants' Exhibit A-117 admitted in evidence.)

Q. (By Mr. Griffin): The check was cashed—was made by you for Arctic Gardens payable to L. Hicks Taylor, is that right? A. Yes.

Q. And deposited to your personal account, wasn't [4274] it?

A. I deposited all my checks to my personal account, yes.

Q. That is, you got the proceeds of that check, didn't you?

A. That is correct. I testified I applied it to my fees.

Q. Pardon me, Mr. Taylor, you were never interrogated about that check, were you?

Mr. LeSourd: I will object to that as argumentative. He was interrogated a few moments ago, and said he applied it to his services.

The Court: Well, the objection is overruled.

Q. (By Mr. Griffin): You were never interrogated until just now about this check, Exhibit A-117, were you?

A. I don't remember of it, no.

Q. You were interrogated and testified about a check for one hundred and fifty dollars and fifty

(Testimony of L. Hicks Taylor.)

dollars and seventeen cents, which you referred to?

A. Yes, all the checks I received I earned, don't forget it.

Q. The \$64.57 check you did not account to to Mr. Forster, did you, Mr. Taylor?

A. I had the approval of Mr. Brehm. [4275]

Q. Which Mr Brehm is that, please, Mr. Taylor?

A. Mr. Brehm was the partner in this company.

Q. His name is what?

A. Edward Brehm.

Q. Edward Brehm approved your drawing——

A. (Interposing) They both knew; they both knew.

Q. Just a moment, Mr. Taylor. Edward Brehm approved your drawing this check and depositing it to your personal account, did he?

A. Sure.

Q. At the time it was drawn?

A. I would say so.

Q. Your relationship with Mr. Forster, Mr. Taylor, from your first acquaintance until at least April, 1950, was one of close personal confidence, wasn't it?

A. Very close, until the 21st of April.

Q. And even he knew——

Mr. Griffin: Strike that.

Q. (By Mr. Griffin continuing): After you had pled guilty to income tax evasion, you knew Mr. Forster advised with your parole officer, didn't you?

A. Yes, I knew it. [4276]

Q. And still asserted his whole belief in you?

(Testimony of L. Hicks Taylor.)

A. Until the 21st day of April. We had words the 21st day of April coming from Conway.

I have had "How do you do" with Mr. Forster since the 21st day of April, supposedly, and published as a best friend and trusted financial adviser in the newspapers, but when Mr. Kachlein got ahold of him, I have not heard from Mr. Forster since.

Q. You were Mr. Forster's trusted and best friend and financial adviser, weren't you?

A. It must have been fine when he wouldn't get in touch with me after the 21st day of April.

It must have been very close.

Q. I am inquiring down until the date you gave, April 21, 1950; until that time you were the close, personal adviser and friend of Hans Forster and he of you, isn't that true?

A. How does poison spread so fast? The 21st day of April we left each other friends, and we have not had over three words since that time, because his mind was poisoned by my former attorney.

Q. My question is, Mr. Taylor——

A. (Interposing) I am answering what actually happened.

The Court: If you will listen to the question, and [4277] then you may answer.

The Witness: All right. I apologize to you, Judge.

Q. (By Mr. Griffin): My question is, Mr. Taylor, until the date that you fix, April 21, 1950, you and Mr. Forster were the closest of personal friends, and you as his chief adviser?

(Testimony of L. Hicks Taylor.)

That is true, isn't it?

A. I was his accountant, not his chief adviser. There were others who took part with Mr. Forster in the advice of his affairs.

Q. Were you very close friends?

A. We were not close social friends at all.

Q. Were you close business friends?

A. We were fairly close business friends, yes.

Q. And going back now to my original question: you knew that he had conferred with the parole officer, your parole officer, after you had pled guilty and still asserted faith that you weren't wilfully at fault, didn't he?

A. Yes, and he was truthful.

Q. And, Mr. Taylor, even after the investigation started upon Mr. Forster's books that had been maintained by you, you are aware of the fact that Mr. Forster [4278] asserted to the Revenue Agents that he did not believe that you could be guilty, didn't he?

Mr. Moriarty: Objected to as not proper cross-examination and hearsay.

Mr. Griffin: It was testified to by the Revenue——

The Court: (Interposing) Objection overruled.

A. Why didn't he contact me?

Mr. Griffin: I will reach that eventually, but may I have the question read, please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

(Testimony of L. Hicks Taylor.)

A. (Continuing) That was never repeated to me.

Q. (By Mr. Griffin): You heard the testimony in the courtroom in that regard?

A. I don't believe so.

Mr. Moriarty: Object to the form of the question, if your Honor please, not proper cross-examination.

The Court: Objection sustained.

Q. (By Mr. Griffin): During the years——

Mr. Griffin: Strike that. [4279]

Q. (By Mr. Griffin continuing): You considered Mr. Forster as a single client, didn't you, Mr. Taylor? A. I did not.

Q. You considered him as a single client in this sense, that he was the Alpine Dairy?

A. Correct.

Q. That he was sole owner of Issaquah Creamery? A. Correct.

Q. That Simonson and Forster was one of his enterprises?

A. He did not control that. Mr. Simonson was the one that operated that.

Q. My question was, you considered Simonson and Forster as one of his enterprises?

A. One of the eight enterprises, yes.

Q. One of the eight: Renton Ice and Ice Cream Company? A. Yes.

Q. Apex Farms? A. Yes.

Q. Arctic Gardens? A. Yes.

Q. Utgard—Finstad and Utgard?

A. Yes.



(Testimony of L. Hicks Taylor.)

Q. You considered, did you not, that Mr. Forster—that [4280] you were representing Mr. Forster, who had eight separate entities of which he was the sole proprietor of some and substantially interested in the others?      A. That is right.

Q. And during the years 1945 to 1949, you were paid slightly in excess of five thousand dollars a year for the services that you rendered, weren't you?

A. Probably it averaged about forty-five hundred dollars, as I remember it.

Q. Did you ever average it, Mr. Taylor?

A. I don't know that I ever did.

Q. Would you say that it did not average slightly in excess of five thousand dollars a year for those years, considering Washington Athletic Club dues?

A. It is possible it did. I don't remember. I saw it once here, but I have forgotten what the figures were.

Q. Before the split-off of Alpine, you were making separate profit and loss statements and the balance sheet for Alpine as operated by Issaquah as well as separate balance sheets for Issaquah and profit and loss statements, weren't you?

A. I was making one balance sheet and displayed the operations of Issaquah and Alpine Dairy separately. [4281]

Q. Yes; which would be the same situation if you had displayed it upon different sheets. wouldn't it, as far as work was concerned?

(Testimony of L. Hicks Taylor.)

A. Oh, hardly.

Q. At the time of that separation, did you advise Mr. Forster that Mr. Erickson could handle the journal at Issaquah?

A. He was handling it.

Q. I am referring to the journal for Alpine.

A. He said he could handle it, yes, Mr. Forster did.

Q. I am asking you if you said he could?

A. I approved that he could, because I knew that he could.

Q. Mr. Taylor, will you tell the Jury what Mr. Forster knew about a journal?

A. Quite a little.

Q. What?

A. He used to look it over quite often.

Q. You didn't have the journal, did you?

A. No, the journal was out at Issaquah. I had the ledger.

Q. You had the ledger, yes.

A. I had the ledger, but the journal was at Issaquah. [4282]

Q. What did he look at in the journal?

A. I don't know. I have seen him look at the journal with Harold.

Q. And do you know what they were looking at?

A. I don't know; I never checked into it.

Q. You were never curious what he was looking at?

A. It didn't make any difference to me.

(Testimony of L. Hicks Taylor.)

Q. How many times in twenty years did you ever see Mr. Forster look at the journal?

A. Oh, four or five times.

Q. That would be when you were there?

A. Yes, he might have looked at it a lot when I wasn't there. I don't know. [4283]

\* \* \* \* \*

### L. HICKS TAYLOR

upon being recalled as a witness for and on behalf of the Defendant Taylor, and having been previously duly sworn, testified as follows:

Cross Examination—(Continued)

Mr. Griffin: Will you mark this, please?

The Court: Defendants' Exhibit A-118 marked for identification.

(Defendants' Exhibit A-118 marked for identification.)

Mr. Griffin: If the Court please, I offer in evidence *Court's* Exhibit A-118 which is a certified copy of a deed from Hans and Evelyn Forster to Frank L. Morris, dated January 25, 1946. This is in connection with the previous morning's testimony.

Mr. LeSourd: We make the same objection, your Honor, we did when this other testimony on this transaction came in; irrelevant and immaterial, and improper cross-examination.

The Court: That objection may show. There is no objection so far as the identification goes.

Mr. LeSourd: No, no objection on that.

(Testimony of L. Hicks Taylor.)

The Court: Objection overruled, and the Exhibit, 118, may be admitted. [4290]

(Defendants' Exhibit A-118 admitted in evidence.)

Mr. Griffin: I would ask if it would be stipulated, to save showing proof, that in the year 1946 the required revenue stamps upon a deed by the Federal Government were \$1.10 a thousand, and by the State of Washington, \$1.00 a thousand?

Mr. Cox: That is the current rate.

Mr. Keesling: I think it is \$1.05.

Mr. Griffin: Very well.

Mr. Cox: We can ascertain that.

The Court: May we proceed on that stipulation with the understanding that if upon further check that is not correct, we can amend the stipulation?

I take it, Mr. Griffin, you have checked it?

Mr. Le Sourd: Have you personally checked it?

The Court: Is that agreeable to proceed on that basis?

Mr. LeSourd: I don't believe so, your Honor.

Mr. Griffin: All right.

May I describe A-118 to the Jury, if the Court please? It is a warranty deed from Hans and Evelyn Forster to Frank L. Morris. The stated consideration [4291] is ten dollars. The deed is—the Notary upon the deed is L. Hicks Taylor. The deed bears documentary stamps, State of Washington, ten dollars, five dollars, fifty cents, and of the

(Testimony of L. Hicks Taylor.)

United States Government, ten dollars, five dollars, two dollars, five cents.

Q. (By Mr. Griffin): Mr. Taylor, are you still unaware of the requirement of documentary stamps upon a deed in the year 1946, both Federal and State?

A. You are asking me if I know the rates?

Q. Yes, I am asking if you are still unaware of the rates?

A. I am not aware of the rate.

Q. You purchased the stamps for the deed, didn't you, Mr. Taylor?

A. I am afraid not, as I remember it.

Q. Did you take the acknowledgment?

A. I took the acknowledgment, yes.

Q. And you prepared the deed, Mr. Taylor?

A. In all probability. I might examine it to be sure.

(Whereupon, there was a brief pause.)

A. (Continuing) Yes, I prepared this deed, but I had nothing to do with the Revenue Stamps.

Q. Were the Revenue Stamps on the deed when you [4292] took the acknowledgment?

A. They were not. If you will notice, that is filed at the request of F. L. Morris.

Q. He was the purchaser?

A. He filed it, and he took it to the court house, and he bought the stamps.

Q. And you represented both Mr. Morris and Mr. Forster?



(Testimony of L. Hicks Taylor.)

A. But I did not buy the stamps, and I did not record the deed.

Q. Ordinarily, the purchaser records the deed, doesn't he, Mr. Taylor?

A. Yes, and ordinarily he buys the stamps, too.

Q. Sir?

A. Ordinarily he buys the stamps.

Q. The purchaser ordinarily buys the stamps

A. In this particular case, yes.

Mr. Griffin: Let me see A-16, please?

(Whereupon, document was handed to Mr. Griffin by the Clerk.)

Q. (By Mr. Griffin): I understand that went you went out to Issaquah, you were supplied a tape, of which A-16 is one of the tapes supplied, is that right?

A. Yes, this is the tape; A-16, yes. [4293]

Q. And you entered the figure from A-16 into your ledger, your control ledger, is that correct?

A. It is part of the posting, yes.

Q. What other posting is there?

A. There is posting from the journal, as well.

Q. The items on A-16 are taken from the journal, are they not?      A. That is correct.

Q. What items are left off A-16 from the journal?      A. The control items.

Q. How many were those?

A. Cash, bank, accounts receivable, and accounts payable, and clearing account.

Q. So, your work, as I understand, was to take

(Testimony of L. Hicks Taylor.)

these items off of the tape and post into the journal—— A. (Interposing) Yes.

Q. (Continuing) ——plus these three or four items from the ledger that you have testified to, is that correct? A. That is correct.

Q. And on the same day that you were out there, these were postings of both Issaquah Creamery and Alpine Dairy, is that correct? A. Yes.

Q. And after the acquisition of Alpine Ice Cream [4294] Company, you also did that posting there at Issaquah, did you not? A. Yes.

Mr. LeSourd: Just a moment.

Q. (By Mr. Griffin): So that——

Mr. LeSourd: (Interposing) If your Honor please, the answer came before I could get an objection in. I will move to strike on the ground of improper cross-examination. It is a subject not covered by the direct examination of Mr. Taylor.

The Court: Objection overruled.

Q. (By Mr. Griffin continuing): So that all these hours you spent at Issaquah, you were doing the posting of three of these enterprises, limited to the sort of posting that is shown here, that you just testified to, is that right?

A. The last five months of 1949 included the Issaquah Ice Cream Company,—I beg your pardon, Alpine Ice Cream Company, Incorporated.

Q. And, by posting, you simply meant taking the figures off of this tape and writing them down in your control ledger? That was posting?

A. Posting the general ledger, yes, sir.

(Testimony of L. Hicks Taylor.)

Q. Now, my question is: [4295]

Simply taking the figures off of the tape, for example, A-16, and writing those figures in your ledger, that is posting?

A. I answered "Yes, sir, posting the general ledger."

Q. Your answer is "Yes," is it?

A. I said "Yes, posting the general ledger."

Q. What else did you do at Issaquah Creamery that day?

A. That practically took the day.

Q. It took you the day?

(Whereupon, there was a brief pause.)

Q. (Continuing) It took you the day to post twenty-four items of Issaquah Creamery, and 27 items of Alpine Dairy, plus the journal items you have mentioned to make those entries in the ledger, did it?

A. You have been playing around here with work sheets. You might note some of those work sheets, and see if there was any work on those.

Mr. Griffin: May the question be read, if the Court please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question in two parts was read by the reporter.)

A. (Continuing) Yes, in conjunction with the [4296] work sheets.

Q. (By Mr. Griffin): Did you pay any particular attention in your posting to the second largest item on Exhibit A-16, the sheet headed "Issa-

(Testimony of L. Hicks Taylor.)

quah," the second largest item of \$64,263.91, miscellaneous; did you pay any particular attention to that item except to write the figure in your ledger?

A. That is correct. It was posted to the ledger in account No. 9, miscellaneous.

Q. My question is: Did you pay any particular attention to that item except just to write the figure in your ledger, as to what that item contained?

A. I told you what I did. I posted the general ledger to miscellaneous, the account No. 9. That is what you asked me.

Q. My question is: did you pay any particular attention as to what that large item of sixty-four thousand dollars for that month contained?

A. Not beyond the posting.

Q. You testified that you assumed when Mr. Forster gave you the figures of interest, that he was giving you net interest, is that correct?

A. Net interest, yes.

Q. You knew as an accountant that you had, or [4297] the taxpayer had, to enter upon his return, all interest received, didn't you?

A. I believe, if you will read the tax return explanation, you will find that business interest is to be entered in one sum.

Your net receipts and net deductions taken off.

Q. My question, Mr. Taylor, is: That you knew, as an accountant, that the taxpayer must enter all interest received on the tax return, must he not?

A. Interest received, less any business interest paid out. That would be net interest.

(Testimony of L. Hicks Taylor.)

Q. What do you mean, "business interest paid out"?

A. Business interest is interest that is paid toward business obligations. The interest that appears on page 3 of the tax return is interest paid on chattel mortgages, and personal operations within his household.

Q. Mr. Taylor, as of the present, it is even required that the name of the payee of every item of interest be entered on the tax return, isn't it?

A. You are exactly right, for 1950 and 1951, they ask for a listing of who you drew the interest from, yes.

Q. That was the requirement of the total interest [4298] received, not net; gross interest received before the new ruling to make you specify, wasn't it?

A. Not necessarily.

Q. I hand you exhibit—Plaintiff's Exhibit 1, which is the individual income tax return for Mr. Forster of 1945, and call your attention to Schedule "B"—

Mr. Griffin: Excuse me a second.

(Whereupon, there was a brief pause.)

Q. (By Mr. Griffin continuing): Under "Deductions"—there is a heading under "Deductions" of interest, isn't there?

A. You are speaking of page 3 of Form 1040. It says, "Interest," yes, sir.

Q. That means that interest that you shall enter there for the taxpayer is the interest he has paid out, doesn't it?



(Testimony of L. Hicks Taylor.)

A. That form is very simple there. This is the computation that calls for the deductions where you do not use the standard deduction. This is interest on personal chattel mortgages, your home, interest on contracts of purchase for furniture and such as that; not business interest.

Q. All right; that is the kind of interest we are talking about, Mr. Taylor.

A. We are not talking of two same interests at [4299] all; one is business interest, and this is for household interest that affects the standard deduction on the tax return.

Q. Now, Mr. Taylor, I am not talking about business interest.

A. That is what I am talking about. It is what I was working with.

Q. Mr. Taylor, I am not talking about business interest. My question is, on page 3, under deductions, the form provides for the deduction of interest to be entered, that has been paid out, doesn't it?

A. As I have explained, you are referring to a different portion of the income tax return, when you refer to the deductions for his personal obligations.

He has a privilege under the Tax Law to take a standard deduction of \$500 or list his contributions. His interest, his taxes, his losses from storm, shipwreck, or other casualty, medical and dental expenses. There are two distinct different places to report interest.

Q. Mr. Taylor, when you requested, you say,

(Testimony of L. Hicks Taylor.)

Mr. Forster to give you his itemization of the interest he had paid out, or the interest received, rather, first, you were not referring to business interest received in business, were you?

A. I was referring to his interest earned, and [4300] all his interests as far as I knew was business interest.

Q. Why, then, wasn't it entered upon the books by you?

A. Why wasn't it entered on the books by Mr. Forster, not by me. He ran the books of original entry. I did not.

The Court: Mr. Taylor, I will have to caution you that when questions are put, you are to answer the questions and not to argue with counsel.

The Witness: I apologize, your Honor.

Q. (By Mr. Griffin): Mr. Taylor, you were the accountant making the personal returns for Hans Forster and Evelyn Forster, his wife, were you not?

A. That is correct.

Q. You were the accountant keeping the books of Hans Forster, were you not?

A. I was maintaining the general ledger.

Q. Now, when you asked Mr. Forster for any other items, I believe you said interest, dividends, you were asking Mr. Forster for any items of interest paid to him personally that did not—that had not gone through the business books, weren't you?

A. That is correct. [4301]

Q. All right; now, going back to this return that you are making for Mr. Forster, on the first page,

(Testimony of L. Hicks Taylor.)

item 3, entitled "Your Income," "Enter here the total amount of your dividends and interest, including interest from Government obligations unless wholly exempt from taxes.", and, as the accountant for Mr. Forster, making an honest return, you were required to enter all the interest that Mr. Forster had received, weren't you, aside from business interest?

A. If Mr. Forster gave me the interest honestly, it went on the tax return honestly.

Q. Mr. Taylor, you have testified time without number, that you assumed that the interest that Mr. Forster gave you was net.

A. And was the correct interest.

Q. Now, net interest does not mean the total interest received, does it?

A. It could mean the total interest received, less interest paid out.

Q. That would be gross interest, wouldn't it?

A. Gross less paid out interest, would be the net interest.

Q. Mr. Taylor, under item 3 of what you called a "simple return," you were required to enter all interest received by the taxpayer, weren't you?

A. Which was done from their figures furnished to me.

Q. I understood he gave you a single figure, you said, which you considered to be net?

A. That is right. That was the figure he said was his interest, and I took it.

Q. But you knew, as an accountant, or did you,

(Testimony of L. Hicks Taylor.)

that the total interest received, was to be entered on his—on Division 3 of the first page of this return; you knew that, didn't you, or did you?

A. I entered the interest that Mr. Forster gave me as his interest earned.

Mr. Griffin: May that question be read, if the Court please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

Q. (By Mr. Griffin): Did you know that?

A. It is entered. The interest given me is entered there.

The Court: Mr. Taylor, the question is: Did you know it?

The Witness: Well, I don't know what his question means—if you know what? What does his [4303] question mean?

Q. (By Mr. Griffin): Did you know that the taxpayer was required to enter upon line 3, under heading "Your Income" interest received?

A. I entered what I received from him, yes. He was the taxpayer.

Q. Mr. Taylor, do you refuse to answer the question?

A. You are confusing the question. You asked me if I entered the interest he gave me, and I said "Yes."

Q. I asked you if you knew, you, personally, Mr. Taylor, knew that the taxpayer was required to enter under the heading of "Your Income," un-

(Testimony of L. Hicks Taylor.)

der subdivision 3, all interest received during the taxable year?      A. That is right, yes.

Q. And did you know that under the heading of "Deductions" on page 3, a place is provided for deducting interest paid out?

A. Yes, I have explained that.

Q. Then why, as an accountant for Mr. Forster, did you not advise him that what you wanted and had to enter was the interest received, and the interest paid out, and not net interest? [4304]

A. Mr. Forster gave me a lump sum of interest, sometimes in two figures. Mr. Forster knew what his income was, and could give it to me.

Q. Mr. Taylor, you have stated that Mr. Forster kept the original books of entry. What do you mean by that?

A. His office retained the books of original entry.

Q. To your knowledge, did Mr. Forster ever make an entry in any book of any kind?

A. I don't know that I have any knowledge of it, no.

Q. You have testified, Mr. Taylor, that you never saw A-61 before. That is the statement of assets of Mr. Forster as of January 1, 1947. Is that correct?

A. I so testified, yes.

Q. My question is: this is a photostat, is it not?

A. No, that is the original.

Q. That is the original. How did you happen to have it in your files, Mr. Taylor?

A. I am afraid you didn't—



(Testimony of L. Hicks Taylor.)

Q. (Interposing) That you referred to so much.

A. I am afraid that you didn't find that in my [4305] files.

Mr. LeSourd: If your Honor please, I will ask that the last question and answer be stricken. It is highly improper. Mr. Griffin's question assumed a fact contrary to the testimony of Mr. Forster whose testimony was, as I recall it, that he found this in a bureau drawer, and I think it is highly prejudicial and I move to strike it.

The Court: That is A-61?

Mr. Griffin: I think that is Mr. Forster's testimony. I am agreeable that the question and answer be stricken.

The Court: The last question and answer by Mr. Griffin may be stricken, and the Court will disregard it. I mean, the Jury will disregard it.

Q. (By Mr. Griffin): Mr. Taylor, you rode once a month, on an average, with Mr. Forster to Conway and back from Conway, didn't you, over a period of years?

A. Yes, we were together, probably two hours or two and one-half hours.

Q. Each way?

A. Probably one hour each way. Maybe a little bit longer.

Q. Did you discuss business?

A. Sometimes. [4306]

Q. You didn't discuss any social matters, did you?

A. Sometimes.

Q. I thought you were not——

(Testimony of L. Hicks Taylor.)

A. (Interposing) Basketball.

Q. Oh, yes, basketball. Now, speaking of basketball, basketball was one of the advertising methods used by Mr. Forster, wasn't it?

A. Yes, I think so.

Q. Did you advise him that he could charge those advertising items off to expense?

A. I have no recollection of it being discussed.

Q. You just discussed basketball, is that right? Were you interested in basketball, Mr. Taylor?

A. I used to play once in a while when a young fellow.

Q. My question was: Were you interested in basketball, Mr. Taylor?

A. To some extent, yes.

Q. And that was your main subject of discussion with Mr. Forster; it was basketball, was it?

A. Many times.

Q. Quite usually—quite often on these trips, Mr. Forster had slips like A-61 which he discussed with [4307] you, didn't he?

A. It is possible, but I don't have any recollection of them.

Q. Now, I think you stated, Mr. Taylor, that you never saw the milk equalization checks that are in evidence here; is that correct?

A. I have no knowledge of seeing them, no.

Q. You were familiar with the matter of milk equalization, were you not?

A. I was not until this trial started.

Mr. Griffin: Exhibit 280, please.

(Testimony of L. Hicks Taylor.)

(Whereupon, Exhibit was handed to Mr. Griffin by the Clerk.)

Q. (By Mr. Griffin): Then why, Mr. Taylor, not being familiar with, I think you said, milk equalization checks, and milk pricing—that is a correct statement of your testimony, is it not?

A. I would like that question read again. I don't follow you on it.

Q. I said, you are not familiar with the milk equalization or with milk pricing, as I understand?

A. Not directly, no.

Q. Then why in one year-end, did you transfer forty thousand dollars on the books on your ledger from [4308] Issaquah Creamery to Alpine Dairy, and another year-end fifty thousand dollars from Issaquah to Alpine Dairy on the basis of milk equalization?

A. Do you have any schedule showing that I performed such a service?

Q. You heard Mr. Eppler's testimony, did you not, sir?

A. I didn't say that I did.

Q. You made the entry in the—in your ledger, did you not?

A. There was no such entry as forty or fifty thousand dollars in any one item in those ledgers.

Q. In any one item; there are four—there are four ten thousand dollar items in the one and five ten thousand dollars in the other, are there not, making forty thousand once and fifty thousand the second time?

(Testimony of L. Hicks Taylor.)

A. I had no recollection of ever seeing such figures in my ledger.

Q. Did you hear Mr. Eppler's testimony in regard to the transfer of figures——

A. (Interposing) He didn't——

Q. (Continuing) ——in that particular?

A. He didn't in any way associate me with them.

Q. Or the ledger? [4309]

A. I don't think he associated the ledger with it, either.

Q. Or the income tax return prepared by you?

Mr. LeSourd: If your Honor please, it doesn't appear to me that this is proper cross examination, to go over what Mr. Eppler testified. If he wants to ask Mr. Taylor what he knows——

The Court: (Interposing) Mr. Taylor is provoking many of these matters by his answers. Therefore, if the answers bring into issue some of these matters, it is proper that they be clarified.

Mr. LeSourd: If your Honor please, he asked if Mr. Eppler testified so and so. He said he did not, as far as he can recall. I don't see how that opens up for argument that which Mr. Eppler testified to. It is certainly not proper cross-examination.

The Court: Well, I agree that some of these matters appear to be argumentative, but likewise, it is provoked, I believe, as much by the witness, if not more so.

(Testimony of L. Hicks Taylor.)

I suggest that the question now be put, and you may proceed.

Mr. Griffin: All right. [4310]

Q. (By Mr. Griffin): Mr. Taylor, in the income tax return prepared by you for Alpine Dairy and Issaquah Creamery, did you reflect a transfer of forty thousand dollars from out of Issaquah to Alpine in the one year, and fifty thousand dollars out of Issaquah into Alpine another year; that is, as income for Alpine and a deduction for Alpine?

A. I had no knowledge of those transactions.

Q. Do you recall the Arctic Gardens check which you said was interest, \$773.21?

A. Yes, I remember.

Q. Exhibit 66, or 66-A.

Mr. Griffin: I don't need it.

Q. (By Mr. Griffin continuing): Mr. Taylor, is there any place in your records that you can show that you entered that item as income to Mr. Forster in his income tax return for that year?

A. No, it does not show as an individual item.

Q. Now, at the—as I understand your testimony, you said at this first meeting of the Renton Ice and Ice Cream Company, the first corporate meeting, you were the secretary and treasurer; that is correct, isn't it, of Renton Ice and Ice Cream Company? A. Yes.

Q. You made the arrangement for the salaries as [4311] has been testified here, and I am not going into that in detail again if you have it in mind.

Mr. LeSourd: Object to the statement. He didn't



(Testimony of L. Hicks Taylor.)

testify he made the arrangement. He testified it was agreed to. If he is not going into it, Mr. Griffin shouldn't make such a statement.

Mr. Griffin: I will ask it this way:

Q. (By Mr. Griffin): You have in mind, Mr. Taylor, your testimony in regard to the payment of salaries, do you, at Renton Ice and Ice Cream Company? A. Yes.

Q. I understood you to say that under that arrangement you knew that Mr. Forster was to receive a portion of the salary money paid to Mr. Schneider and Mrs. Baskett, is that correct?

A. That was their agreement, yes.

Q. And that you told Mr. Forster to deposit his payment when he received it into the Alpine Dairy account, is that correct? A. That is correct.

Q. And you told him that the reason for it was so he would not have—so you would not have to identify it on his income tax return; is that correct?

A. On the face of his income tax return, yes.

Q. Well, Mr. Taylor, that was for the purpose, was it, of still retaining Mr. Forster's lack of identity with Renton Ice and Ice Cream Company?

A. That was the intention.

Q. Well, why—the tax return of the taxpayer is confidential as between the taxpayer and the Government of the United States, isn't it?

A. Yes, but he wasn't voted a salary.

Q. And if the name Hans Forster had been written all over the tax return, of the Renton Ice and Ice Cream Company, it still would have been con-

(Testimony of L. Hicks Taylor.)

fidential between the United States Government and the Corporation, wouldn't it?

A. That is possible, yes.

Q. Why did you tell him then—why did you say that you told him, rather, to deposit the money in Alpine so that it would not show on the face—he would not show on the face of a tax return?

A. He was not voted a salary at the Renton Ice and Ice Cream Company.

Q. By the way, you prepared the minutes, did you not, of the Renton Ice and Ice Cream Company of that first meeting?

A. I believe so.

Mr. Griffin: May I have the minutes, A-6? [4313]

(Whereupon, Exhibit was handed to Mr. Griffin by the Clerk.)

Q. (By Mr. Griffin): You have been the secretary and treasurer of a great many corporations, have you not, Mr. Taylor?

A. The same as with this one, acting to be helpful.

Q. And you have organized many corporations and have prepared the articles?

A. Not very many, no.

Q. And you know that the minutes of a corporation are prepared to speak the truth, do you not?

A. Yes, that is the intention.

(Whereupon, there was a brief pause.)

Mr. Griffin: I am sorry, if the Court please. I thought I had them where I wanted them.

(Whereupon, there was a brief pause.)

Q. (By Mr. Griffin): Referring to Exhibit A-6,

(Testimony of L. Hicks Taylor.)

Mr. Taylor, and the minutes of September 30, 1942, that is your signature as Secretary, is it not?

A. That is correct.

Q. You were also the treasurer?

A. I believe the by-laws combined the two positions. [4314]

Q. And that was an organizational meeting of this—part of the organizational meeting?

A. Well, I didn't read it so that I couldn't tell you what it says.

Minutes of a Special Meeting of the Board of Directors of the Renton Ice and Ice Cream Company is what this calls for.

Q. Under date of——?

A. September 30, 1942.

Q. September 30, 1942, and—which was the same time in the organization that you prepared the list of your directors and officers, September 30, 1942, is that correct?

A. I am a little afraid that Mr. Wettrick performed this service. I did not.

Q. I am referring to the date September 30, 1942, the same date at least——

A. (Interposing) That is the date of the officers, yes.

Q. The minutes, Mr. Taylor, subscribed by you, September 30, 1942:

“The President and Chairman, Mr. Schneider, called attention to the advisability of establishing by resolution the salaries of the officers who are giving all or a portion [4315] of their time to the busi-

(Testimony of L. Hicks Taylor.)

ness interests of the company, and upon motion duly made, seconded and passed, it was resolved that the president be awarded the sum of \$500 a month salary, the vice-president \$500 a month salary, and the secretary-treasurer, \$50 a month salary until the further action of the Board of Directors of the stockholders, and that said salary be made retroactive to the commencement of business of this company.

“There being no further business, the meeting adjourned.”

You prepared that minute, didn't you, Mr. Taylor?      A. I did.

Q. Then was it a portion of that \$500 per month that the arrangement was made that Mr. Forster was to receive?      A. That was the agreement.

Q. You knew as the accountant for Mr. Forster that if he received any portion of that money, no matter in what form it was paid, it was income to Mr. Forster, did you not?

A. That is correct.

Q. And you knew, as the accountant for Mr. [4316] Forster, it had to be accounted for as income in his income tax returns, didn't you?

A. And it would have been, if it had been followed out.

Q. My question is: You knew that he had to account for that in his income tax returns, didn't you?

A. And he had proper instructions where to file it, yes.

(Testimony of L. Hicks Taylor.)

Q. And did you ever, as the checks were made, throughout the years, ever check, or inquire, into where that money went and to what account?

A. I don't know that I did.

Q. You didn't feel that you owed any obligation in your relationship to Mr. Forster as his accountant for these enterprises, knowing the arrangement made on the payment of this, to ascertain whether he was accounting for it, or not?

A. I did not, but I didn't assume that Mr. Forster was not obligated to look out for his own, as well.

Q. Did you ever read any tax regulations to Mr. Forster?

A. I probably have read considerable to him.

Q. Can you tell us one that you read to him?

A. I don't know, offhand, no.

Q. Did you ever read any yourself?

A. Well, I recollect I have, yes.

Q. During these years? A. Yes.

Q. As a matter of fact, in the arrangement that—you approved this arrangement, as the accountant for Mr. Forster, for the Renton Ice and Ice Cream Company, didn't you?

A. I was present; I believe it was approved, yes. It was approved by all four present.

Q. And that included you?

A. It included me, I was a director, yes.

Q. Mr. Taylor, you told Mr. Schneider to purchase bank checks with which to make the payments to Mr. Forster, didn't you?



(Testimony of L. Hicks Taylor.)

A. I believe I heard him testify to such a statement, which is very much untrue. That was his own decision.

Q. Now, my question is:

You instructed Mr. Schneider to purchase cashier's checks, didn't you?      A. I did not.

Q. (Continuing) To make these payments?

Was it you, Mr. Taylor, that advised Mr. [4318] Forster that Mr. Simonson was taking an additional \$100 a month?

A. I believe Mr. Forster testified to that, and I assume it was probably true.

Q. I think you have testified time without number that you were not interested in Mr. Forster's personal affairs; is that correct?

A. Do I understand that question? What was it, again?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. (Continuing) No.

Q. (By Mr. Griffin). Why did you tell Mr. Forster that Mr. Simonson was taking an additional \$100 a month?

A. My recollection is that the company was showing a loss, and I thought it should be discussed a little, as the salaries were too great for what the business would stand.

Q. As a matter of fact, each month the company showed a small profit, didn't it?

A. Sometimes, but very small, at times.

(Testimony of L. Hicks Taylor.)

Q. It showed a yearly profit during each year, and never a loss? [4319]

A. After I restored the \$1200, it did one year, to the profit.

Q. Was there any year that Simonson and Forster was not actually operating at a profit?

A. They would have been at a loss if Mr. Forster's salary had not of been restored in 1948.

It showed a slight profit after the \$1200 was restored.

Q. You were quite, then, familiar with this \$1200 item, weren't you, Mr. Taylor?

A. Yes.

Q. And you knew that Mr. Forster received that \$100, \$100 each month of the 12 months of each year, didn't you?

A. Yes, of 1948 and 1949, I knew.

Q. Yes; and you knew that no matter what you did as far as bookkeeping was concerned, that that \$100 that Mr. Forster was receiving was income to Mr. Forster for the year in which it was received, didn't you?

A. Not the way it was handled. It was not income, and it was not Mr. Forster's desire to pay a tax on it.

Q. Mr. Taylor, as an accountant, was it your opinion that you could handle something that was money received as income—handle it so it ceased to be income?

A. Well, if you understood the association of

(Testimony of L. Hicks Taylor.)

Simonson and Mr. Forster, you would understand that [4320] situation.

Q. Mr. Taylor, if Mr. Forster received \$100 a month from Simonson and Forster, once each month for twelve months in the year 1948, even if he returned that full \$1200 in the year 1949, you knew, as an accountant, it was still income for the year 1948, didn't you?

A. It was not so treated.

Q. Oh, I am not asking you how you treated it, sir.

A. You heard me—you heard me testify as to why it was treated—restored to profit; because of the financial condition of the company, Mr. Forster and Mr. Simonson had to return money to the company so that was the reason it was not reported as income on Mr. Forster's tax return.

Q. Mr. Taylor, I am not asking or inquiring how you treated the matter. My question is:

That you, as an accountant, knew that when Simonson and Forster paid \$100 a month, once each month, in the year 1948 to Hans Forster, even if he returned it all in 1949, it was still income, reportable income in the year 1948, wasn't it?

A. No.

Q. Do I understand that you can take a client's income, treat it—by "income," I mean cash money [4321] received—treat it, and it ceases to be such?

Is that your philosophy in accounting?

A. I would say not.

Q. Also, in connection with Simonson and Fors-

(Testimony of L. Hicks Taylor.)

ter, you made the statement "I was not keeping his books." Do you recall that, referring to Mr. Forster?      A. That is correct.

Q. You opened the Alpine office, didn't you?

A. That is correct.

Q. You employed Mrs. Wilcox, didn't you?

A. With Mr. Forster's approval, yes.

Q. You knew that Mrs.—Miss Wilcox kept no books as to accounts payable at Alpine, didn't you?

A. That is correct.

Q. You arranged it that way, didn't you?

A. Because Mr. Forster wanted the distribution done in Issaquah.

Q. My question is:

You arranged the accounting system that way, didn't you?

Mr. LeSourd: He answered the question. It is argumentative.

Mr. Griffin: I am not arguing anything.

The Court: Objection overruled. [4322]

Q. (By Mr. Griffin continuing) You arranged the accounting system that way, didn't you, Mr. Taylor?

A. No, the accounting system was in Issaquah, and this became a branch.

Q. It became a branch?

A. Yes. I arranged the accounting system for the branch, if that is the question you want answered that way.

Q. And while you were not keeping—using that term—keeping Mr. Forster's books, you were su-

(Testimony of L. Hicks Taylor.)

pervising the keeping of Mr. Forster's books, weren't you?

A. I was keeping the general ledger.

Each person in the office was in charge of that office.

Q. Mr. Taylor, during the years in question, were you supervising the bookkeeping system of Mr. Forster in his enterprises?

A. I was maintaining the general ledger, and giving whatever assistance to the heads of the offices that I could. I was not supervising any individual, or had any authority over any individual.

Q. My question is:

Were you supervising the bookkeeping system and set-up of the Hans Forster enterprises? [4323]

Mr. LeSourd: Object to it, your Honor, as argumentative. He has answered the question.

The Court: Well, if the witness says that it is the best answer that he can give, that is satisfactory. Is that your answer?

The Witness: Yes, sir.

Mr. LeSourd: It is a perfectly full and adequate answer, your Honor. It don't want any implication it is not.

The Court: I don't question it. It is for the Jury to determine whether or not he answered the question.

Mr. Griffin: It is recess time.

The Court: Ladies and Gentlemen of the Jury:

We will now take the mid-morning recess. The Court calls your attention to the admonition given



(Testimony of L. Hicks Taylor.)

you on similar occasions, and asks that you heed it on this occasion.

You may now be excused.

(Whereupon, the Jury retired from the court room.)

Whereupon, at 11:01 a.m. a recess was had in the within-entitled and numbered cause until 11:16 o'clock a.m. April 21, 1954, at which time, counsel and defendants heretofore noted being present, the following [4324] proceedings were had, to-wit:)

The Court: You may call the Jury.

(Whereupon, the Jury was returned to the court room.)

The Court: You may be seated.

It is stipulated that the Jury and all defendants are present in the court room?

The Court: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

Mr. Griffin: A-51 and A-52, please?

(Whereupon, Exhibits were handed to Mr. Griffin by the Clerk.)

The Court: You may proceed, Mr. Griffin.

Q. (By Mr. Griffin): Mr. Taylor, you made the statement, I believe, that the Renton checks—that is, referring to these cashier checks—were part of Hans' bookkeeping. What do you mean by that?

A. The cashier's checks—am I right?

Q. The cashier's checks—that is, the checks that Mr. Schneider obtained and paid to Mr. Forster?

(Testimony of L. Hicks Taylor.)

A. Yes; that would be part of Mr. Forster's bookkeeping.

Q. What bookkeeping did Mr. Forster have that you did not supervise, Mr. Taylor? [4325]

A. All his personal, except the Alpine Dairy.

Q. Did you consider, when you were making income tax returns for Mr. Forster, which included the Alpine Dairy, that it included everything of Mr. Forster?

A. No. Mr. Forster was to present me with all his other earnings outside of the Alpine Dairy.

Q. Did you ever discuss and try to help him think what those earnings might be?

A. I think in the early years, I gave him considerable instructions in it.

Q. The thing got big, and in the latter years, you gave him none, is that right?

A. Well, I doubt—I may have given him some, but if at any time I did not, I did not figure that he had any outside activities besides his Alpine Dairy and these eight companies.

Q. You were quite familiar with all his activities, weren't you?

A. Not his personal activities, no.

Q. Several times in your testimony, Mr. Taylor, you have referred to, I think, being a public accountant and handing the books, or the ledgers, of small businesses, is that correct?

A. That is correct, yes.

Q. Isn't this the actual fact in this situation, [4326] Mr. Taylor:

(Testimony of L. Hicks Taylor.)

That this—these enterprises of Mr. Forster in the '40's became big business—sales up to eight million dollars—and isn't this the fact, that it just became a little too big for you to handle?

A. No, I followed the same system.

Q. You followed the same system for a business grossing eight million dollars a year that you followed for one of fifty thousand dollars, didn't you?

Mr. LeSourd: Object to the form of the question, your Honor.

There is no testimony it grossed eight million. I think counsel is referring to all eight.

Mr. Griffin: I am. The record shows eight million dollars in sales.

Mr. LeSourd: Well, don't say "business"; it is businesses. I will object to the form of the question as assuming eight million for one business.

The Court: The reporter will read the question.

(Whereupon, preceding question was read by the reporter.)

The Court: It appears to be business. If it is understood that this covered all——

Mr. Griffin: (Interposing) The witness has testified, if the Court please, he considered Hans Forster [4327] the client, and that these eight separate businesses—I am speaking upon that basis——

The Court: (Interposing) You may proceed. So modified——

Mr. LeSourd: (Interposing) Well, if it were modified for several businesses, I don't know what that does to the question.

(Testimony of L. Hicks Taylor.)

Q. (By Mr. Griffin continuing) It is a fact that you treated the Hans Forster enterprises grossing eight million dollars a year in the same way that you handled the accounting for a business grossing fifty thousand a year, isn't it?

A. No.

Q. And what difference did you—

A. (Interposing) Mr. Forster—the interests of Mr. Forster were all separate and distinct. Each operation increased its internal operations to cover the increase in the volume of business. My operations didn't increase.

Q. And wasn't another trouble with this—these enterprises that for example, Issaquah was selling in large sums to Alpine, the sole proprietor, and it was the matter of the accounting between Mr. Forster, as an individual and Issaquah in which he owned all the stock? [4328]

A. Yes, and it was a simple operation, one customer buying from another.

Q. It was one customer buying from another, but it was the same individual in the end that was being taxed, wasn't it?

A. I didn't consider it so, no.

Q. I realize that.

A. One is a corporation, and the other is an individual operation.

Q. And Finstad and Utgard was a large seller to Apex Farms?

A. Yes, as far as I recollect, yes.

Q. In other words, while Mr. Forster was an

(Testimony of L. Hicks Taylor.)

individual in one of these enterprises—and it was a large one, wasn't it, Alpine?

A. Alpine was a large operation, yes.

Q. Sales around three or four million?

A. Somewhere in that neighborhood.

Q. Issaquah, in which he owned all the capital stock, was a large operation, wasn't it?

A. Yes.

Q. And Finstad and Utgard, of which he owned all the capital stock was a fairly large operation, wasn't it? [4329]

A. It was a modest operation, yes.

Q. And with these others, actually you had a situation where Mr. Forster was doing business with himself, didn't you?

A. No, I think a corporation that is organized has a separate entity and should be handled as a corporation and separate.

Q. I am not questioning that. In other words, these matters gave you no trouble or concern, Mr. Taylor, as far as a true statement of income taxes were concerned, regarding Mr. Forster; is that correct?

A. Yes; the ledgers were reporting the income tax return as I received the information.

Q. I say, these matters gave you no particular concern?

A. When you say "matters," do you mean as between one corporation and another?

Q. The interlocking of income and expenditures between the various corporations and Mr. Forster



(Testimony of L. Hicks Taylor.)

individually gave you no particular concern from a bookkeeping standpoint?

A. No, because they had bookkeepers, in each of those places, who could certainly keep those things in order.

Q. Do you recall the testimony of Miss Neukirchen [4330] that she consulted with you, worried because at a certain stage, ice cream sales were not being entered upon the books?

Mr. LeSourd: Object to that, your Honor, and ask that the question be stricken. It is an improper statement. Her testimony was not to that effect at all. She merely testified, as I recollect it, and we have the transcript, that she mentioned the extra work that she was going to do on account of the O.P.A.

The Court: I think the question might be formed differently. Objection sustained.

Q. (By Mr. Griffin continuing): Do you recall the testimony of Miss Neukirchen?

A. Yes, I remember it.

Q. That she complained to you, did she not, that certain sales were not being entered upon the books?

A. I do not have any recollection of that.

Q. Do you recall her testimony?

A. I recall her testimony.

Mr. LeSourd: I will move to strike this whole line of questioning on the ground it is improper reference to testimony, that she did not so testify and Mr. Griffin is improperly quoting her testimony.

(Testimony of L. Hicks Taylor.)

The Court: Well, if there should be any question [4331] about it, the Court will again instruct the Jury that any question by counsel is not evidence, and the statement itself might not be evidence.

Q. (By Mr. Griffin): Do you recall Miss Neukirchen making the statement to you, in substance and effect:

“I didn’t like it.”?

A. I do not recall her statement.

Q. Do you recall that you said to her that she was to follow instructions?

A. I do not have any recollection of that discussion in any way.

Q. Now, with reference to Finstad and Utgard, as I understand your testimony, you as the accountant approved the set-up by which Finstad and Utgard or checks from Finstad and Utgard, to Ege-ness, were used in payment to Mrs. Finstad for her stock; is that correct?

The Witness: I would like to have that question read again.

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. That was the agreement, yes. [4332]

Q. (By Mr. Griffin): Those payments to Mrs. Finstad for her stock was the stock being purchased by Mr. Forster, wasn’t it?

A. Not according to the agreement, no.

(Testimony of L. Hicks Taylor.)

Q. You were very familiar with that matter, were you not, Mr. Taylor?

A. The books display exactly what happened.

Q. Mr. Taylor, certain stockholders, Grant and another, and Egeness, and eventually Grant and Egeness had entered into an agreement to purchase the stock of Mrs. Finstad, didn't they?

A. As I remember it, yes.

Q. Mr. Forster entered into an agreement with Grant and Egeness to purchase all of their stock and take over their contract to purchase Mrs. Finstad's stock, didn't they?

A. That is as I understood it, yes.

Q. All right; so, Mr. Forster was acquiring all the stock in Finstad and Utgard, wasn't he?

A. No. The records show that Mr. Egeness was paying for some of that stock.

Q. I am not asking you about how you kept any books, Mr. Taylor. You had possession of all the original documents in the Finstad and Utgard deal, didn't you?

A. No. [4333]

Mr. Griffin: Will you mark this, for identification, please?

The Clerk: Defendants' Exhibit No. A-119 marked for identification.

(Defendants' Exhibit No. A-119 marked for identification.)

Q. (By Mr. Griffin): You handled the details of Mr. Forster's purchase in Finstad and Utgard, didn't you, Mr. Taylor?

A. I did not.

Q. Handing you Exhibit A-119 for identifica-

(Testimony of L. Hicks Taylor.)

tion, I will ask you if that is not a letter from Mr. Carl Croson to Finstad and Utgard, to your attention, dated March 28, 1945; that is a copy?

A. This letter——

Q. (Interposing) I am just asking what it is.

A. It is a letter addressed to Finstad and Utgard, Incorporated, Mt. Vernon, Washington, attention Mr. L. Hicks Taylor, accountant.

Q. You received that?

A. I am not positive that I ever had that letter in my possession.

Q. Not positive that you ever had the original of this letter in your possession?

A. No, I am not positive that I ever did. [4334]

Q. I will ask you if there was not forwarded to you the items shown in this? Now, for the purpose of refreshing your recollection, there was not forwarded to you the items specified in Exhibit A-119 for identification?

Mr. LeSourd: I suggest, your Honor, that the letter be put in evidence prior to that. We have no objection to it.

Mr. Griffin: If there is no objection—I didn't assume identification was complete.

Mr. Moriarty: We have no objection if Mr. Taylor doesn't object.

The Court: Mr. Keesling, you have no objection?

Exhibit A-119 may be admitted, there being no objection.

(Testimony of L. Hicks Taylor.)

(Defendants' Exhibit A-119 admitted in evidence.)

Q. (By Mr. Griffin continuing): Now, Mr. Taylor, this is on—A-119 is on the letterhead of Croson, Johnson & Wheelon, March 28, 1945, Finstad and Utgard, Incorporated, Mt. Vernon, Washington, Attention: Mr. L. Hicks Taylor, Accountant.

“Dear Sir:

“Enclosed you will please find the following:

“Quit Claim Deed from Peter K. Utgard, a bachelor of New Richmond, Wisconsin.”

“2. Statutory Quit Claim Deed from Mary Finstad to Finstad and Utgard, Incorporated.”

With explanations of what the deeds are.

“3. A bill of sale \* \* \*”

“4. A recorded deed \* \* \*”

from other parties involving other parties.

“5. An old tax receipt \* \* \*”

“6. Photostatic copy of payment of taxes in the year 1927 paid by Finstad and Utgard.”

“7. A Quit Claim Deed from Mary S. Finstad, a widow, to Finstad and Utgard, Incorporated” \* \* \* correcting another deed.

“8. Copy of the Decree entered in Skagit County \* \* \*”

“9. You will also please find a statement from Mary Finstad dated August 1, 1943, that James Cook, W. S. Grant, John Roberts and Vern Egenes had paid her \$13,000 on their contract to purchase the stock of Finstad and Utgard, Incorporated.”

“10. Receipt from Mary Finstad dated August



(Testimony of L. Hicks Taylor.)

1, 1943, that the total amount due on the contract of sale for all the stock of Finstad and Utgard, Incorporated, dated the 3d day of December, [4336] 1941 was \$27,000 as of July 1, 1943."

"11. A receipt \* \* \*"

"12. I also hand you various papers in connection with the various freezers purchased by Issaquah Creamery Company. While I do not anticipate that you will need these, I hand them to you to place in your files.

"I still hold as escrow holder under escrow dated February 8, 1941, stock certificates numbered 21 to 29, both inclusive, of the capital stock of Finstad and Utgard, Incorporated, to be delivered to Mr. Hans Forster upon the payment of the remaining balance of the contract of purchase of the stock from Mary Finstad.

"The original of the Minutes of the meeting of the Board of Directors on June 26, 1944 were delivered to Hans Forster with the original of the Waiver of Notice, and the resignation of J. D. Roberts, W. S. Grant and Vern B. Egenes as treasurer.

"13. I hand you herewith two of the old Minutes Books—" and describing them.

"I am retaining the Stock Book in my possession until I close the escrow. When Mr. Forster has paid Mrs. Finstad the balance due on her contract, I will then deliver the endorsed stock certificates to Mr. Forster. [4337]

"I am assuming that you are taking care of the

(Testimony of L. Hicks Taylor.)

current minutes for the corporation. If you wish my help in this, please let me know as I have assumed no responsibilities without instructions.

“A copy of this letter is being sent to Mr. Hans Forster, care of Issaquah Creamery Company, Issaquah, Washington.

“Yours very truly,

Croson, Johnson and Wheelon.”

“P.S. This closes the obligation of Messrs. Grant, Egenes, Cook and Roberts, and the balance of the purchase price to them may now be paid.”

Does that refresh your recollection that you received these documents?

A. It refreshes my recollection completely. Those documents were mailed to Mt. Vernon. They were given to Mr. Forster and he took them to Issaquah, and I think before he took them to Issaquah, that I looked some of them over, and I may have later had some of them in my office, but that letter was mailed to Mt. Vernon, not to me. I probably had, possibly, some of those documents, but the whole package was not delivered to me in its entirety.

Q. Then Mr. Forster was purchasing Mrs. Finstad's stock, wasn't he? [4338]

A. That was the original agreement, yes.

Q. He was purchasing the Egeness stock, and Grant stock, wasn't he?

A. That was the intention, yes.

Q. And that constituted all the stock of the corporation, didn't it?

(Testimony of L. Hicks Taylor.)

A. Except the agreement between Mr. Forster and Egeness and myself.

Q. Where did you ever get the idea, Mr. Taylor, that there was a separate agreement between Mr. Egeness and Mr. Forster?

A. Well, it was made in my presence.

Q. As I understand your testimony, Mr. Egeness was buying stock from Mr. Forster, is that right?      A. That is correct.

Q. All right; Mr. Egeness was selling his interest to Mr.—his interest to Mr. Forster for a balance of thirteen thousand dollars under the agreement referred to in Exhibit A-119, wasn't he?

A. It was completely paid for.

Q. I didn't ask you that.

A. Yes; it was completely paid for.

Q. He was selling his stock for thirteen thousand dollars, and I understand, according to your testimony, a separate agreement was made in your presence by which [4339] Mr. Egeness was buying that same stock back from Mr. Forster for twenty-six thousand dollars, is that right?

A. That is my understanding.

Q. Well, irrespective of what they were doing, irrespective of your understanding, the fact is that the money paid out of Finstad and Utgard to Mr. Egeness and paid by Egeness to Mrs. Finstad was income to Mr. Forster, wasn't it?

A. No. The records show that Mr. Egeness paid the tax on that money and it was set up as a salary on the corporate records.

(Testimony of L. Hicks Taylor.)

Q. I am not asking you anything about what you did on the records, Mr. Taylor. The fact is, even under your statement, that Egeness was buying stock from Mr. Forster, wasn't it?

A. He was buying a share of the contract, yes.

Q. Oh, he was buying a share of the Finstad contract?

A. I understood he was buying twenty-five per cent of that contract, of the stock in escrow, of Mrs. Finstad.

Q. Now, as a matter of fact, Mr. Taylor, there was no such agreement suggested or made in your presence or out of your presence between Mr. Forster and Mr. Egeness, was there?

A. Yes, there was. [4340]

Q. It was a device set up in your mind to explain how you carried your ledger, wasn't it, and didn't show income? A. It was not.

Q. Mr. Taylor, is it physically possible to have a minus inventory?

Mr. LeSourd: Object to that, your Honor, as irrelevant and immaterial, and improper cross-examination. Counsel attempted to go into this matter when Mr. Gorans was on the stand, I believe, and your Honor ruled at that time it was irrelevant, and it is still irrelevant and not covered in any examination in chief, and not a proper part of the cross-examination.

The Court: What does this relate to, Mr. Griffin?

Mr. Griffin: It relates to the accounting of Mr. Taylor, these work sheets that he refers to. It re-



(Testimony of L. Hicks Taylor.)

lates to the testimony that there cannot be a minus inventory. It is a physical impossibility, and I propose to show that Mr. Taylor, from time to time, carried minus inventory as a bookkeeping device, which is a physical impossibility.

Mr. LeSourd: I might refresh your Honor's recollection. These involved not year-end matters, at all, but matters within the year which your Honor ruled [4341] were irrelevant when offered prior to this time.

Mr. Griffin: I am not showing——

The Court: (Interposing) It has relation to entries made by this—by Mr. Taylor?

Mr. Griffin: Yes, your Honor.

The Court: The Court will overrule the objection.

Q. (By Mr. Griffin continuing): Mr. Taylor, is it physically possible in bookkeeping practice, to have a minus inventory? A. No.

Q. You, however, in your bookkeeping set-up of Issaquah Creamery, carried minus inventory from time to time, didn't you?

Mr. LeSourd: Just a moment, Mr. Taylor. Same objection.

The Court: Objection overruled. A. No.

Mr. LeSourd: Your Honor, may I have a continuing objection to this or does your Honor desire me to raise it each time?

The Court: You mean matters relating to a minus inventory?

Mr. LeSourd: Yes. [4342]



(Testimony of L. Hicks Taylor.)

The Court: You may have a continuing objection.

Mr. LeSourd: Yes, on the grounds just previously stated.

The Court: Yes, on the grounds it is beyond the scope.

Mr. LeSourd: And it is irrelevant and immaterial and improper cross-examination.

The Court: You may have a continuing objection.

Q. (By Mr. Griffin): Mr. Taylor, I hand you A-51 for identification and ask you what that is?

A. There should be a sheet attached to this. This is Issaquah Creamery Company, trial balance, and work sheet of March 31, 1949.

Q. By "work sheet", you mean it is your work sheet?

A. It is my work sheet, and my handwriting.

Q. And handing you A-52 for identification, I will ask you what that is?

A. This is a work sheet of April 30, 1949, in my handwriting.

Mr. Griffin: Will you mark this for identification?

The Clerk: Defendants' Exhibit A-120 **marked** [4343] for identification.

(Defendants' Exhibit A-120 marked for identification.)

Q. (By Mr. Griffin): Handing you A-120 for identification, Mr. Taylor, I will ask you if that is one of the tapes comparable to A-16?

(Testimony of L. Hicks Taylor.)

A. Yes; this is a tape, March 31, 1950.

Q. And your handwriting is on it?

A. I find a few notations here. There is no other handwriting of mine on it.

Mr. Griffin: I offer A-51.

Mr. LeSourd: If your Honor please, we raise the same objection to A-51. Your Honor previously rejected it when offered for the same purpose it is now being offered.

Its admissibility is even less proper now in view of the fact that this a matter entirely outside the direct examination. Your Honor rejected it before because it was irrelevant, and it is still irrelevant.

Mr. Griffin: The rejection before, if the Court please, was not objected to. That was in regard to direct examination of a witness.

Now, we are on cross-examination of a witness's [4344] own documents.

Mr. LeSourd: Certainly there was nothing in the direct examination that made this any more relevant than it was before, your Honor.

The Court: I understand, Mr. LeSourd, your theory. The Court has indicated before, on cross-examination with this witness, matters relating to the books which he kept I have permitted a larger scope, and I am inclined to overrule the objection, without knowing specifically what the matter is. It possibly might be irrelevant but I would overrule the objection. It may be admitted.

(Defendants' Exhibit A-51 admitted in evidence.)

(Testimony of L. Hicks Taylor.)

The Court: There is one question, however, about this March 21, 1950.

Mr. Griffin: I haven't offered that, yet. This is 1949.

The Court: That is within the period. Exhibit A-51 may be admitted.

Q. (By Mr. Griffin): Now, handing you A-51, Mr. Taylor, there have been some writing over of figures in A-51, a change of figures?

A. Possibly some adjustment, yes. [4345]

Q. Before the adjustments, what does A-51 show as to inventory on hand, Issaquah Creamery Company, March 31, 1949?

A. Is this the one you are referring to (indicating)?

Q. No; I am just asking you what it shows as to inventory.

A. I have a minus figure in the caption of "Inventory", \$5,789.18. That requires explanation.

Mr. LeSourd: Go ahead and explain your answer.

A. (Continuing) When we work out these work sheets, we try to analyze a little bit as to the profit picture that appears. Not having a slip showing what inventory Mr. Erickson gave to me, I don't know what figure was worked on, but in using the inventory, we find that the profit has ballooned to a point that it is impossible to have made such a profit. So, in analyzing it, I take the estimate, what may have not been charged in purchases, there may be a sale that has been brought in ahead, or left

(Testimony of L. Hicks Taylor.)

out, and there can be various things that affect a work sheet of this type. So, in order to bring some kind of a viewpoint to the point of this business, I made an estimate that the inventory was overstated, that the purchases were probably overstated, and I estimated that the [4346] costs of goods sold would have to be reduced possibly \$5,789.18 to display somewhere near the true profit for the period.

It is merely a calculation. A minus inventory does not exist, only on paper. It does not exist otherwise, and this being a notice to Mr. Forster that the gross profit could not range to the figure that an actual inventory would show. I use this as a flag, to let him know that I thought there was some error somewhere.

Q. (By Mr. Griffin): Where—this work sheet is one of these you have been claiming all of this time as your own, isn't it?

A. I prepared it, yes.

Q. What you delivered to Mr. Forster was one of the balance sheets on white paper?

A. Typed up, yes.

Q. Typed up; well, where was there any flag on that typed-up paper that you delivered to him?

A. I would say that Mr. Forster can read one of these statements, and when he would see the inventory marked minus on the balance sheet and saw the inventory marked minus on the profit and loss statement, that he would know that there was something that should need [4347] some action, or for correction.

(Testimony of L. Hicks Taylor.)

Q. That was your job, wasn't it?

A. Not necessarily.

Q. Did you ever carry a minus inventory into a year-end statement for tax purposes?

A. No; no, this is descriptive of operation. It is for a purpose of keeping a proprietor of a business in line, and giving him some idea what his profits are running for the period.

Q. Mr. Taylor,—

A. (Interposing) This has nothing to do with the closing of books. This is not closed into the books at all. This is a work sheet.

Q. (Continuing) Mr. Taylor, that statement, that balance statement that you delivered to Mr. Forster once each month, was not a work sheet, was it?

A. It was; it was a descriptive sheet for the period under review.

Q. And you say, Mr. Taylor, that A-51 on the white sheet that you delivered to Mr. Forster was a flag?

A. That is right, flagging that figure.

Q. Mr. Taylor, as an accountant finding a minus inventory from a bookkeeper, was it any flag to you? A. Sure. [4348]

Q. Then why didn't you investigate and correct that situation?

A. I called it to the attention of Mr. Forster and Mr. Erickson, both.

Q. How many times?

A. Is that a question? I apologize, Mr. Griffin.



(Testimony of L. Hicks Taylor.)

Mr. Griffin: It is all right.

A. How many times did I call him on this one thing? I do not recollect that it happened very many times. I think probably two or three times in my experience out there.

Q. How could it happen more than once if you called it to Mr. Erickson's attention?

A. I might call your attention to this, Mr. Griffin. I was always thirty days behind in the month-end work. I went out usually the last Saturday of the month following. By the time I would have this completed and mailed to him another month would have closed up, and it is possible that this same situation could have carried over a two-month period.

Q. Well, Mr. Taylor, will you explain to the Jury how Mr. Erickson could obtain a minus inventory?

A. Oh, there are many ways that in calculation——

Q. (Interposing) Now, before—let me interrupt [4349] you before we do that, because, as you said, the inventory sheet supplied by Mr. Erickson is not on this? A. That is right.

Q. So that I will hand you A-52, which also shows a minus inventory, does it not, and that is for the month of April——

Mr. LeSourd: (Interposing) Just a moment. I think that should be offered before it is talked about.

The Court: Wasn't it offered?

(Testimony of L. Hicks Taylor.)

Mr. LeSourd: I don't believe so.

Mr. Griffin: I am sorry. I thought A-51 and A-52 were both in.

Q. (By Mr. Griffin continuing): April 30, 1949——

Mr. LeSourd: (Interposing) We will make the same objection, your Honor. It is also one that was excluded by your Honor when offered. It is irrelevant and immaterial, and improper cross-examination.

The Court: It is a work sheet.

Mr. Griffin: Yes, your Honor.

The Court: The objection is overruled.

(Defendants' Exhibit No. A-52 admitted in evidence.) [4350]

Q. (By Mr. Griffin continuing): A-52 shows what as to inventory, Mr. Taylor, your work sheet?

A. An inventory figure written, not in my penmanship, shows——

Q. (Interposing) I said, please, just a moment, what does your work sheet show as to inventory?

A. My work sheet shows a minus \$7,618.76 on the P & L statement.

Q. That is dollars?

A. That is correct.

Q. Now, you were starting to explain how——starting to explain how Mr. Erickson could get a minus inventory. Now, the first sheet——

Mr. LeSourd: (Interposing) I will object to that. He never said Mr. Erickson said anything about a minus inventory. I will object to Mr.——

(Testimony of L. Hicks Taylor.)

Mr. Griffin: (Interposing) I think that is what we started to do when I interrupted, so that he could have this sheet.

Q. (By Mr. Griffin continuing): I interrupted you again.

This sheet attached is Mr. Erickson's handwriting, isn't it?

A. That is my belief, it is. [4351]

It looks more like it.

Q. That would be the sheet he gave you as to inventory?

A. Correct.

Q. Now,——

Mr. Griffin: Does the Court want to adjourn?

The Court: We can go another five minutes or so.

Mr. Griffin: Yes.

Q. (By Mr. Griffin continuing): Now, will you explain to the Jury how Mr. Erickson could get a minus inventory when there are actually physical assets on hand?

A. Mr. Griffin, might I explain this? I think you asked me how Mr. Erickson could get a minus inventory. Mr. Erickson has not furnished me a minus inventory. He has furnished me a plus inventory. This is only my calculation to call attention to what I think could have happened. It is only a calculation. If, from this work sheet, we take the inventory that Mr. Erickson gave me of \$42,-381.24, this business in four months' period, clear beyond all question of doubt, showed a profit of \$129,231.99 which was a profit of about 25 percent

(Testimony of L. Hicks Taylor.)

which they never made in their lives. So, I started making my calculation to see if I could arrive [4352] at something that I thought might be in error.

(Whereupon, there was a brief pause while the air raid sirens blew.)

A. (Continuing) I started making my calculation to see if I could determine an approximate amount of difference that could exist, the theory being that many times that an inventory may be taken a week later than the close of the end of the month. It might have been taken the week before. It might have been taken on Sunday. Inventories are taken at different periods and this being one month back, as I have explained to you, I always did this work sheet one month after the journal was closed, so I made out a balance sheet here and by using the inventory of \$42,381.24, by the net worth basis which has been discussed here, this sheet showed a profit of \$129,231.99, or approximately \$32,000 a month profit in those four months.

So, I felt, in my own mind, that there must be some difference, so in order to place it before Mr. Forster, I made a calculation of an approximation of \$50,000 that was probably taken in in some indirect way, and I came out with a profit, by applying fifty thousand dollars to purchases, reducing them by the \$42,000 inventory, with a profit of \$79,231.99, which, in actual figures, is approximately fifty thousand dollars [4353] even difference.

This was only as a flag, or a notice, that some-

(Testimony of L. Hicks Taylor.)

where, there must have been an error of somewhere in the neighborhood of fifty thousand dollars, and should be corrected, and I am thirty days after the journal has been closed, so something has to be worked out in the following period. That is the purpose of what you might call not a nice inventory, or an addition to the cost of goods sold, and I have added \$7,618.76 to the cost of goods sold to attempt to arrive at a true gross profit.

The Court: Now, Ladies and Gentlemen of the Jury:

We are going to recess a little early this noon, so at this time, we will suspend operation of the case now before five minutes after twelve. The Court calls your attention to the admonition given you on similar occasions, and asks that you heed the same admonition on this occasion.

You may now be excused until 1:45.

(Whereupon, the Jury retired from the courtroom.)

(Whereupon, at 12:06 o'clock p.m. a recess was had in the within-entitled and numbered cause until 1:46 o'clock p.m. April 21, 1954, at which time, counsel [4354] and defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: You may call the Jury.

(Whereupon, the Jury was returned to the courtroom.)

The Court: You may be seated.



(Testimony of L. Hicks Taylor.)

It is stipulated that the Jury and all defendants are present in the courtroom?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

The Court: You may proceed, Mr. Griffin.

Q. (By Mr. Griffin): Mr. Taylor, proceeding with A-52, which is the sheet we were examining about prior to recess, as I understand your testimony, upon this attached slip of paper, Mr. Erickson gave you inventory, April 30, 1949, in his own handwriting, \$42,381.24, is that correct?

A. Yes.

Q. Above that, you have written on this inventory slip that Mr. Erickson gave fifty thousand dollars, is that correct? A. Yes.

Q. Subtracted Mr.—the figure given you by Mr. Erickson and got a minus inventory of \$7,618.76; correct? [4355]

A. I got minus cost of goods sold, or minus inventory, whichever you want to call it.

Q. And minus \$7,618.76 is your figure, and not Mr. Erickson's? A. Right, sir.

Q. Then you did not accept figures from the tape for inventory and simply enter them in the books, did you? A. May I have it, please?

(Whereupon, Exhibit was handed to the witness by Mr. Griffin.)

A. (Continuing) This Exhibit A-52 is a work sheet, and none of the figures that are used in working out a work sheet, except the original trial balance, which are the figures that show on the left-

(Testimony of L. Hicks Taylor.)

and here, are in the books. We do not enter monthly any of these figures. They are only for informative purposes, these work sheets. So, the books have not been changed in any way because of this calculation.

Q. I think you testified just before recess that in analyzing these figures, you determined that there was a fifty thousand dollar error, is that correct?

A. Not necessarily an error. I wouldn't say. I figure that there must be some discrepancy of some kind. I wouldn't know what it would be. [4356]

Q. You wouldn't know what it would be, and you proceeded to analyze the figures on Exhibit A-52?

A. Yes, I came to a conclusion of my own.

Q. And you made the changes accordingly?

A. Yes.

Q. Well, Mr. Taylor, wouldn't the place to look for a fifty thousand dollar error in the month of April be in the books of the corporation?

A. Well, you understand I was out there one day, and probably this was done in my office the next day, or a day later. I didn't have the book to make an examination.

Q. Mr. Taylor, would not the place to find a fifty thousand dollar error in the month of April, 1948, be in the books, or records, of the Issaquah Creamery Company, or Alpine—Issaquah Creamery Company?

A. You are absolutely correct. That is what that was for, to call it to the attention of whoever might check on it.

(Testimony of L. Hicks Taylor.)

Q. Why didn't you examine the necessary books of the Issaquah Creamery Company to find where a manifest error had been made in the month of July, 1948?      A. I was not——

Q. (Interposing) 1949.

A. (Continuing) ——making audits of the records [4357] at that time.

Q. An analysis of a trial balance by an accountant is the highest form of professional auditing, is it not?      A. No.

Q. Just a moment. Where it results in the change of income or disbursements?

A. No, it is not.

Q. Then I understand your testimony that with a fifty thousand dollar error somewhere as of April, 1949, you made a report to Mr. Forster simply based upon assumptions, is that correct?

A. That is correct, for his knowledge, yes.

Mr. Griffin: Will you mark this folder for identification, please?

The Clerk: Defendants' Exhibit No. A-121 marked for identification.

(Defendants' Exhibit No. A-121 marked for identification.)

The Court: Is that 121, Mr. Clerk?

The Clerk: Yes, your Honor.

The Court: What is 120?

The Clerk: This, which was not offered (indicating.)

Mr. Griffin: That is identified and not offered.

Q. (By Mr. Griffin): Handing you Exhibit A-

(Testimony of L. Hicks Taylor.)

Q21 for identification, I will ask you if this is the balance sheet, Issaquah Creamery, profit and loss statement, working papers, as you call them, to which is attached a minute signed by you, the balance sheet being as of March 31, 1950?

A. Yes, that is my work sheet.

(Whereupon, there was a brief pause.)

Mr. LeSourd: We object to it, as irrelevant and immaterial, and improper cross-examination. It is outside March, 1950.

Mr. Moriarty: We join in the objection, if your Honor please.

Mr. Griffin: May I state the purpose of the offer?

The Court: You may.

Mr. Griffin: I am concerned only in the offer with the balance sheet and profit and loss statement, Issaquah Creamery Company, to ascertain if that is the same sort of balance sheet and profit and loss statement that he submitted to Mr. Forster, which he says was a flag in 19—in the months—for the month of March 31, 1949, and April, 1949, of which we cannot find the white sheets themselves. I am dealing with this matter of inventory, only.

The Court: It is in 1950?

Mr. Griffin: Yes, March, 1950. I simply want to use the first two sheets as an example, is all.

The Court: It is difficult for me to see how anything in 1950, regardless of what the purpose might be, Mr. Griffin, would be admissible. It is beyond—

(Testimony of L. Hicks Taylor.)

Mr. Griffin: (Interposing) There is no question about that.

The Court: That is, over objection.

Mr. Griffin: I understand.

The Court: Objection will be sustained at this time unless there is a further showing.

Mr. Griffin: All right.

Q. (By Mr. Griffin): Did you submit a balance sheet and profit and loss statement to Mr. Forster in typewriting for the month of April, 1949, and the month of March, 1949?

A. It is my recollection that I did, yes.

Q. How would you show a minus inventory upon those printed statements, typewritten statements, Mr. Taylor?

A. If I remember correctly, without having the typed copies, I believe that I wrote an explanation on the bottom of each one to explain my contention, to call it to Mr. Forster's attention.

Q. You always did that with a minus inventory, did [4360] you, Mr. Taylor?

A. Usually, when very unusual things happened, I dropped Mr. Forster a line as to what I thought would be the corrective motive to take care of it.

Mr. Griffin: Now, I again offer, if the Court please, the first two sheets of the Exhibit, A-121.

Mr. LeSourd: Same objection, your Honor. I don't see where it has any relevancy at all.

The Court: Well, possibly it has a little different



(Testimony of L. Hicks Taylor.)

application at this time, but I still feel the objection should be sustained.

Q. (By Mr. Griffin): Referring to Exhibit A-31, Mr. Taylor, which is a balance sheet and profit and loss statement for December 31, 1948, inventory slip attached, what inventory did Mr. Erickson give you for the month of December, 1948?

Mr. LeSourd: Objected to, your Honor, as improper cross-examination and irrelevant and immaterial.

The Court: What exhibit is that, again?

Mr. Griffin: A-31, I believe, in evidence.

The Court: And the question, Mr. Reporter?

(Whereupon, preceding question was read by the reporter.)

The Court: Objection overruled.

A. Might I ask, Mr. Griffin, if you could find the [4361] work sheet that matches this, or do you have it?

Q. (By Mr. Griffin): Mr. Taylor, my first question is: What inventory figure did Mr. Erickson give you for the month of December, 1948?

A. The slip upon here shows an inventory of \$83,319.62, and in examining this balance sheet and quoting strictly from memory, I will say, and I believe, that my work sheets will uphold me, that a transfer from this inventory figure was made into an account called "Improvements." As I remember the transaction, there was \$10,000 of building material in this inventory, and that that was transferred into the improvement account, and the

(Testimony of L. Hicks Taylor.)

saleable products inventory reduced ten thousand dollars.

Q. In other words, you changed inventory, actual inventory figures given you by Mr. Erickson at will, didn't you?

A. No, that change was made at the instigation of Mr. Forster.

Q. Oh, you discussed—you recall, don't you, that you discussed this particular item with Mr. Forster?

A. I say, I am quoting what I remember, and I personally would not know what the inventory was composed of without the help of those who took it.

Q. My question is: You recall specifically discussing this charge of ten thousand dollars to improvements with Mr. Forster, don't you?

A. I am quite sure that I do, yes.

Q. Now——

A. And it was at Mr. Forster's suggestion, wasn't it, that you changed your—that you changed the inventory figures?

A. That is my opinion, yes.

Q. And it was at Mr. Forster's suggestion, wasn't it, that you put that in improvements?

A. Yes, sir.

Q. And when did you do that?

A. In all probability about the end of January of 1949.

Q. You have a distinct recollection about that conversation, and Mr. Forster's instructions, don't you?

(Testimony of L. Hicks Taylor.)

A. I said I have a recollection, yes.

Q. And you had your forms made out for what you call your working papers, items made out to be filled in, each time you went out to Issaquah, didn't you?

A. No, I prepared them while I was there, or when I came back to my office.

Q. You prepared the whole thing there?

A. Sometimes; sometimes I didn't have a [4363] chance to finish them.

Q. Now, I hand you your working sheet, Mr. Taylor, A-28. You changed the figures on that working sheet, yourself, didn't you?

A. Well, who else would? I am the one that does the writing on these sheets.

Q. Mr. Forster doesn't do any writing on there?

A. Mr. Forster did an awful lot of thinking on them.

Q. What was the purpose of that thinking, to beat income taxes?

A. I would not say that. If you will look at this report here, you will see that the net profit has not been changed in any way.

Q. No; but you did change the inventory figure given by Mr. Erickson, didn't you?

A. We did change the purchases by ten thousand dollars, and changed the inventory by ten thousand dollars, and did not in any way change the net profit for the year.

Q. And you changed the work sheet, A-28, on inventory from the original figure you had on there

(Testimony of L. Hicks Taylor.)

by reducing it ten thousand dollars as shown in your own writing, didn't you?

A. Nobody has denied that. [4364]

Q. I am just asking you if you did.

A. I say, "Yes."

Q. What was the purpose of the change, Mr. Taylor?

A. I believe I testified what it was.

Q. And that was what?

A. Materials for construction.

Q. Yes, but what was the purpose of making the change?

A. What was the purpose? I apologize. Pardon me. Charges are generally made for the purpose in which they are purchased for, to fit the situation.

Q. As I understand your situation to be, it is that the change to be made in your analysis is as you saw fit, to meet any situation?

A. Are you through with the question?

Q. Yes, sir.                      A. That is not so.

Q. Well, what was the situation you wanted to meet when you reduced Mr. Erickson's inventory by ten thousand dollars?

Mr. LeSourd: Objected to as repetition. The question was answered once or twice.

The Court: I believe the answer isn't clear. The Court will overrule objection. [4365]

A. Materials purchased for improvement that were inventoried were transferred from an inventory to an improvement account.

Q. (By Mr. Griffin): Is this a new account?

(Testimony of L. Hicks Taylor.)

A. Yes, it shows on the balance sheet.

Q. And you haven't had such an account before?

A. Oh, many times.

Mr. Griffin: May I see 212, please?

(Whereupon, Exhibit was handed to Mr. Griffin by the Clerk.)

Q. (By Mr. Griffin): Now, you have—you analyzed, did you then, at the end of each month, these statements that you were making?

A. No, not necessarily.

Q. If you thought the profit was too much, you analyzed it, did you? A. Not always.

Q. With reference to Exhibit 212, which is the accounts payable journal of Renton Ice and Ice Cream Company, Mr. Taylor, I think you have testified these figure "1's" were not written by you?

A. That is right.

Q. The result of those figures showed [4366] accounts payable for the month of August, 1947, of \$18,277.36, did it not?

Mr. LeSourd: Objected to, your Honor, as not August. It is July. And, furthermore——

Mr. Griffin: (Interposing) Correct.

Mr. LeSourd: (Continuing) ——that is not a total of the actual results of the "1's."

Mr. Griffin: July is correct.

Q. (By Mr. Griffin continuing): Is that correct?

The Court: The amount, I don't know.

Mr. LeSourd: It is not a correct total of the "1's" as phrased in this question.



(Testimony of L. Hicks Taylor.)

Q. (By Mr. Griffin continuing): My question was: the result of adding those "1's" gave accounts payable for the month of July, \$18,277.36, didn't it? A. No.

Q. What did it give?

A. It had nothing to do with it.

Q. What is the total, \$18,277.36, Mr. Taylor?

A. That is the total of accounts payable for that period.

Q. For the month of July?

A. No, it is for the end of the year.

Q. It is? [4367]

A. That is the total for the end of the fiscal year.

Q. All right; the total for the end of the fiscal year, then, what were the accounts payable, Mr. Taylor, for the month of June?

A. I don't know.

Q. Will you look?

A. There is a figure here of \$9100 but I don't know anything about it.

Q. Mr. Taylor, Exhibit 212 is the accounts payable journal of the Renton Ice and Ice Cream Company, is it not?

A. No, that is the accounts payable journal of Mr. Ray Schneider. It had nothing to do with the books I worked on. They were not part of the books.

Q. You never saw them before, did you, Mr. Taylor? A. Is my writing on there?

Q. Just a moment, Mr. Taylor. I will ask the questions. A. Sorry.

Q. You never saw Exhibit 212 before, did you?

(Testimony of L. Hicks Taylor.)

A. I may have seen that book, yes. I say that, but that wasn't part of the complete set of books.

Q. You were still at this time the Secretary-Treasurer [4368] of the Renton Ice and Ice Cream Company, is that correct?      A. Yes.

Q. Aside from Exhibit 212-A and the Exhibit 212, did the Renton Ice and Ice Cream Company have any other accounts payable journals from the time of its incorporation up to and through the year 1949 other than these two?

A. As far as I know, Mr. Schneider had those books.

Q. Did you ever examine them?

A. I probably did.

Q. All right; now, then, what does Exhibit 212 show was the accounts payable for the month of June, 1947?

A. I will read you the amount that it shows in the book.

Q. All right.      A. \$9,115.53.

Q. And, for the month of May?

A. \$7,337.73.

Q. And for the month of April?

A. \$7,920.30.

Q. And for the month of March?

A. \$7,340.52.

Q. Then, Mr. Taylor, those amounts that [4369] you have just read are around \$30,000.00 at least in the accounts payable, aren't they?—month by month?      A. I don't know.

Q. Do you still want to say that this item of

(Testimony of L. Hicks Taylor.)

\$18,277.36 is the—represents the accounts payable for the fiscal year of 12 months preceding?

A. That is the closing accounts payable for the fiscal year.

Q. But representing in that item alone the accounts payable for the last month only of that fiscal year, isn't that correct?

A. It is nearly correct. It could possibly have accounts payable two or three months old. It doesn't necessarily have to be the current month.

Q. Mr. Taylor, what were the accounts payable approximately of the Renton Ice and Ice Cream Company for the twelve months' period ending with the fiscal year-end month of July, 1947?

A. I don't know as I understand your question.

Q. Well, the accounts payable of Renton Ice and Ice Cream Company ran around eight to nine thousand dollars a month, didn't they, as you made the returns?

Mr. LeSourd: I will object to that, your Honor. The return is made only at the end of the fiscal year. He made no returns for each month. [4370]

The Court: Well, the witness can answer the question. The question was put. Do you understand the question?

The Witness: I don't know if I get what he is driving at, at all.

Q. (By Mr. Griffin continuing): Mr. Taylor—

The Witness: (Interposing) I get the principle of it.

Q. (By Mr. Griffin continuing): Mr. Taylor,

(Testimony of L. Hicks Taylor.)

you prepared the income tax return for the Renton Ice and Ice Cream Company during the time of its existence down to and including the year 1949, didn't you?      A. Yes, I did.

Q. What were the average—was not the average of accounts payable each month, at least during 1947, 1946 and 1948 and 1949, approximately eight to nine thousand dollars a month?

A. I do not know.

Q. Is it your testimony that for the fiscal year ending July, 1946, the accounts payable for that year were \$18,277.36?

A. That is the figure that was used for the income tax return in closing the books for the close of the year. [4371]

Mr. LeSourd: 1947, I believe it is.

A. (Continuing) 1947.

Q. (By Mr. Griffin): 1947; my question is: is the total that you used of Accounts Payable for the Renton Ice and Ice Cream Company for the fiscal year ending July, 1947, total accounts payable for that year, \$18,277.36?

A. No; this is the balance owing at the end of that period.

Q. Balance of accounts payable?

A. Correct.

Q. Now, will you look at Exhibit 212? That fiscal year would begin in what month?

A. In August 1st.

Q. August 1st of 1946?      A. Yes.

Q. All right; beginning August 1, 1946, Mr. Tay-

(Testimony of L. Hicks Taylor.)

lor, referring to Exhibit 212, what was the total of accounts payable for that month?

A. \$14,338.05.

Q. The following month?

A. That is the end of the fiscal year.

Q. All right. A. \$7,534.87.

Q. That is \$7500? Correct? [4372]

A. Right.

Q. The next month? A. \$5,368.27.

Q. The next month? A. \$5,285.58.

Q. And the next month? A. \$3,561.15.

Q. And the next month? A. \$3,977.95.

Q. And the next month? A. \$5,600.73.

Q. And the next month? A. \$4,661.18.

Q. And the next month? A. \$3,977.95.

Q. And the next month? A. \$5,600.73.

Q. And the next month? A. \$4,661.18.

Q. And the next month? A. \$7,346.54.

Q. And the next month? A. \$7,920.30.

Q. And the next month? A. \$7,337.73.

Q. And the next month? A. \$9,144.26.

Q. All right.

A. Final accounts payable, \$18,277.36.

Q. Now, having read the amount of accounts payable for the 11 preceding months, were you not attracted to the amount of accounts payable of \$18,000 in the month of July?

A. It looked satisfactory to me.

Q. Notwithstanding it was over 100 per cent over any other accounts payable month, is that right? A. That has no bearing on it.



(Testimony of L. Hicks Taylor.)

Q. You knew——

A. (Interposing) This book was not being used as a regular book in our business.

Q. It wasn't? A. No.

Q. Nor Exhibit 212, is that correct, and Exhibit 212-A?

A. Mr. Griffin, I can show you where Mr. Schneider abandoned this book and would not keep it going. It was abandoned completely by the business practically on his own motion.

Q. Will you just show me where Mr. Schneider abandoned 212-A? [4374]

A. Right in here. See, this book was quite complete back in here.

Q. Just show me, Mr. Taylor, where Mr. Schneider abandoned 212-A? A. Right here.

Q. By "right here," you are referring to the page preceding April, 1943, is that right?

A. That is correct.

Q. The total of the preceding page of the accounts payable, unpaid bills, is \$3,701.93, is that correct? A. Yes.

Q. And who wrote that in?

A. That is my writing. I am the one that did that. That is when Mr. Schneider abandoned the book.

Q. So that you did have the book back in there?

A. This was originally an installation but Mr. Schneider abandoned it.

Q. Whose figure is that above yours for the accounts payable for \$9,110.60?

(Testimony of L. Hicks Taylor.)

A. That was probably Mr. Schneider's figure at some time.

Q. But you wrote below it, \$3,701.93, didn't you?

A. Sure, because I worked it out. [4375]

Q. The last entry where you say the book was abandoned is March 29, 1943, sheet 1, 2, 3, 4, 5, 6 entries under that; isn't that right?

A. That is right.

Q. The next sheet begins April 1, 1943—excuse me just a second, sir,—and carries every month, month by month, and year by year, through the rest of 212-A and through 212, doesn't it?

A. Yes, but the system was changed by Mr. Schneider, as I am trying to tell you.

Q. You knew that neither Mr. Schneider nor Mrs. Baskett was receiving their full salary, didn't you?

A. They were receiving it, yes.

Q. And under the arrangement made paying a portion of it to Mr. Forster?

A. They received their full salary.

Q. And paying a portion to Mr. Forster?

A. That was their agreement.

Q. But you prepared both Mr. Schneider's and Mrs. Baskett's income tax returns for them charging them with the full salary, and no deduction out, didn't you?

A. Correct.

Q. With regard to Finstad and Utgard in the year 1946, you changed their inventory figures by around ten [4376] thousand dollars, round figures, and in 1948 by a round figure, \$4,000, didn't you?

A. I did not.

(Testimony of L. Hicks Taylor.)

Mr. LeSourd: Just a moment, Mr. Taylor. Objected to as incompetent, irrelevant and immaterial, and improper cross-examination, and I move that the answer be stricken and that the question be stricken.

The Court: On what grounds, Mr. LeSourd? On the ground it is an item not covered in direct?

Mr. LeSourd: Not covered in direct examination, your Honor, and irrelevant to any of the Government's charges in this case.

The Court: That is the same objection you made to other items?

Mr. LeSourd: It certainly is, your Honor.

The Court: Objection overruled.

Q. (By Mr. Griffin): Mr. Taylor, did you change the inventory figures of Finstad and Utgard by ten thousand dollars in the year 1946?

A. No, I did not.

Q. Were they changed? A. I do not know.

Mr. LeSourd: May the Court please, may we have a continuing objection to this line of questioning, [4377] this Finstad and Utgard matter?

The Court: On inventory, you may.

Mr. LeSourd: On the same grounds just stated.

Q. (By Mr. Griffin): Did you change the Finstad and Utgard figures by \$4,000 in 1948?

A. I did not.

Q. Did you change Finstad and Utgard's accounts payable at December 31, 1947?

A. I did not.

Mr. LeSourd: Just a moment. May we have the

(Testimony of L. Hicks Taylor.)

same objection, your Honor, to the examination on this subject? This is Accounts Payable.

The Court: This is Accounts Payable?

Mr. LeSourd: Yes.

The Court: Of Finstad and Utgard?

Mr. LeSourd: Yes; on the same grounds previously stated?

The Court: Yes.

Mr. LeSourd: Your Honor, that is understood to be a continuing objection on all this same line?

The Court: On this same line.

Mr. LeSourd: Yes; to avoid objecting.

The Court: That is quite agreeable, Mr.—

Mr. Griffin: (Interposing) Yes, your Honor.

The Court: If there is any objection on form, or otherwise, you will make it?

Mr. LeSourd: I would on form, yes, sir.

Q. (By Mr. Griffin): Now, I hand you A-44, which is in evidence, and ask you if that exhibit refreshes your recollection as to the changes in inventory and accounts payable that I just referred to? A. Is that December, 1947?

Q. Accounts payable, yes.

A. December, 1947, there appears to have been an added ten thousand dollars to the accounts payable, December, 1947.

Q. And that ten thousand dollars, added to the accounts payable was taken off of inventory, wasn't it? A. It was not.

Q. Who added the ten thousand dollars to accounts payable?

(Testimony of L. Hicks Taylor.)

A. I would say Mr. Egeness.

Q. You carried it into your ledger?

A. I did.

Q. Did you make any inquiry about it?

A. I did.

Q. What was it?

A. It was the bonus due on the milk. [4379]

Q. Due whom?           A. The farmers.

Q. What do you find as to inventory, 1946-1947 in that Exhibit, Mr. Taylor?

A. The inventory appears to be in Mr. Egeness's writing, \$7,760.96.

Q. Any change in it?

A. I can't see it.

Q. Do you know what you carried into your ledger?           A. No, I do not remember.

Q. (Continuing) At the year-end?

And, at the end of 1947, what is the inventory?

A. \$7,760.96.

Q. It wasn't necessary for you to look at any page except the first page, Mr. Taylor, on this item of inventory?           A. For what reason?

Q. I say, it wasn't necessary upon my question?

A. Here is the information, right there.

Q. Thank you, sir. The inventory figure manifestly has been changed, hasn't it, Mr. Taylor?

A. It is whatever Mr. Egeness set it up at. It may have been changed. If it was typed, it has been changed in pencil.

Q. The sheet itself is typed, isn't it? [4380]

A. Yes.



(Testimony of L. Hicks Taylor.)

Q. The sheet itself manifestly shows an erasure, doesn't it?      A. It is possible.

Q. And a pencil figure written in?

A. Yes.

Q. That is the figure you used, isn't it, Mr. Taylor?      A. Yes.

Q. The same is true of accounts receivable, the original figure erased, and a new figure written in, in pencil, is that correct?      A. Yes.

Q. You were the accountant, secretary-treasurer, of Finstad and Utgard, weren't you?

A. In name, yes.

Mr. Griffin: Will you mark this?

The Clerk: Defendants' Exhibit A-122 marked for identification.

(Defendants' Exhibit No. A-122 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit A-122, Mr. Taylor, for identification, I will ask you if this is not a record of the 1947 bonuses that you have just testified to, [4381] wherein you made a change of ten thousand dollars, Finstad and Utgard?

A. I wouldn't know. I don't know anything about the bonuses.

Q. You made a change of ten thousand dollars?

A. No, I didn't make the change.

Q. You just explained to the Jury, did you not, there was a change of ten thousand dollars due to bonus by Mr. Egeness?      A. Yes.

(Testimony of L. Hicks Taylor.)

Q. All right; did you make any inquiry as to the bonus?

A. Mr. Egeness was general manager. I took his figures.

Q. Did you make any inquiry as to bonuses?

A. I didn't have to. He was manager. It wasn't necessary for me to question his figures.

Q. Did you make any inquiry as to the bonus?

A. No, I did not.

Q. Did you have supplied you, on the matter of bonus, Exhibit A-122, or a copy of it?

A. No, I did not.

Q. The bonuses, Mr. Taylor, were around five hundred dollars, weren't they?

A. That, I do not know. [4382]

Q. Was Exhibit 252—is that one of your work sheets, Mr. Taylor?

A. Well, it looks as though it might be one of this group of papers that I left with Mr. Forster in his office; it is my writing, if that is what you want to bring out?

Q. It is in your writing?

A. Yes, you bet it is.

Q. Headed Hans Forster, financial statement, February 28, 1948?

A. That is what it reads, yes.

Q. What was the purpose in preparing it, Mr. Taylor?

A. May I ask: is there a typed schedule of this kind?

(Testimony of L. Hicks Taylor.)

Q. My recollection is there was one in evidence, Mr. Taylor? I don't recall the number.

A. You don't recall the number of it. What is the nearest one? May I have the nearest one to this date? That might refresh my memory as to some of this. Could I have it, please?

Q. Certainly, if I can get it for you.

Mr. Patten: 123.

Mr. Griffin: 123?

Mr. Patten: Yes. [4383]

Q. (By Mr. Griffin continuing): The nearest one I find in evidence is dated February 29, 1948, and the one I just handed you, Exhibit 252, is February 28, 1948, one day difference.

The Court: Is there a question pending?

Mr. Griffin: The question was:

Q. (By Mr. Griffin continuing): What was the purpose in preparing this statement for Mr. Forster? What I am trying to clear is, I would like the one that joins nearest this date that was actually given to the bank. Have you another one that was actually given to the bank?

Mr. Maxwell: 123 was.

Q. (By Mr. Griffin): Well, Plaintiff's Exhibit 124 is Financial Statement, March 31, 1947, and Exhibit 122 is December 31, 1948.

A. That is—that will be helpful in a slight explanation of why this statement was prepared.

From the best of my recollection, at that time, Mr. Forster wanted to borrow two hundred thousand dollars to build an ice cream plant. Mr. Strack

(Testimony of L. Hicks Taylor.)

and Mr. Donaldson, who both testified here, did not come out clearly to Mr. Forster that they didn't want any more of his loans at that time, because he had loaned past their [4384] loan limit, so I was called secretly to be talked to about this situation, how Mr. Forster could possibly liquidate all the loans that he had, of his various companies.

Q. Called secretly by whom?

A. By one of their credit men.

Q. Do you remember his name?

A. No, I cannot remember.

Q. By that, you mean credit men at the bank?

A. Yes.

Q. Not by Mr. Forster secretly?                      A. No.

Q. All right.

A. So, I had a tentative financial statement made up as of this date, showing a net worth of Hans Forster of seven hundred fifty-five thousand dollars.

If you folks have seen this—we have, this is Hans Forster, Alpine Dairy Assets, with various associate companies, showing their net worth each, in this case, Issaquah Creamery, \$342,000, Apex Farms, \$69,000, Finstad and Utgard, \$74,000, Puyallup Creamery, one-half interest, \$14,000, Renton Ice, \$19,000. In other words, this statement was made up to show Mr. Forster's net worth, of his Alpine Dairy, plus his other holdings. [4385]

The banker wanted to know what the cash position, what a quick turnover—what a quick payment would do. So, with a little effort, I took the various

(Testimony of L. Hicks Taylor.)

statements to see. One change was made. We estimated what could be liquidated from accounts receivable, in a hurry, in case of a close-down. We assumed within fifteen days we could collect approximately one hundred thousand dollars, so we analyzed from a standpoint of moving one hundred thousand dollars out of accounts receivable, and moving it up into the cash to make the cash position better.

Then we took the added—now, this was Alpine Dairy accounts receivable we were talking about, so we reduced Alpine Dairy one hundred thousand dollars, accounts receivable, and increased the cash to show the application. Then we took all the statements to see what we could accomplish with the various statements in bringing into a cash position in a quick liquidation.

We estimated we could accumulate one hundred thousand dollars there. So, we moved two hundred thousand dollars ahead of the ninety-three thousand dollar balance on the Alpine books, increased the accounts payable, because Mr. Forster's position would be different. If he took money from one of those corporations to liquidate his loans, he would owe the [4386] corporation.

So, in order to get the application of the possible quick cash position, we increased the accounts payable one hundred thousand dollars and remained with the same net worth figure of \$755,512.

That was the purpose of this particular paper. I am sorry I don't have all the work sheets that



(Testimony of L. Hicks Taylor.)

have been spread around to actually show you in detail on that work sheet.

Q. The purpose then, Mr. Taylor, of making up Exhibit 252, was to make out a financial statement of Mr. Forster's net worth, wasn't it?

A. Of his enterprises, yes, to show a quick liquidation position.

Q. And with reference to—you will notice that Exhibit 123 bears the signature of Mr. Forster, doesn't it? A. That is right.

Q. You made up the document, didn't you, Mr. Taylor?

A. Oh, yes; I prepared the document.

Q. You showed cash on hand and in banks, \$293,848.11, didn't you, Mr. Taylor?

A. That was shown for that purpose, yes.

Q. This was a statement delivered to the Peoples [4387] Bank for the purpose of credit, wasn't it? A. At their request, yes.

Q. You knew at the time when you made up that statement showing cash on hand, \$293,848.11 that it was utterly untrue, didn't you? A. I——

Q. (Interposing) You can answer that "yes" or "no," Mr. Taylor. A. No.

Q. Oh, he did have it on hand?

A. I believe I testified that the principle and the purpose and the method of preparation and the purpose of it.

Q. Mr. Taylor, cash on hand and in banks in accounting practice means precisely what it says, does it not—cash in my pocket or in the bank?

(Testimony of L. Hicks Taylor.)

A. I would say that when I prepared that, that could have been possible.

Q. Was the bank—this gentleman whose name you do not remember at the Peoples Bank, requesting you to make an untruthful financial statement to the bank on behalf of Hans Forster?

A. No, he was not.

Q. Why did you do it?

Mr. LeSourd: I object to the form of that [4388] question, your Honor.

The Court: Objection sustained. Should we take the recess, Mr. Griffin?

Mr. Griffin: All right. Excuse me.

The Court: Ladies and Gentlemen of the Jury: We will now take the mid-afternoon recess. The Court advises you you are to heed the admonition given you on similar occasions.

You may now be excused.

(Whereupon, the Jury retired from the court room.)

(Whereupon, at 2:48 o'clock p.m. a recess was had in the within-entitled and numbered cause until 3:01 o'clock p.m. April 21, 1954, at which time, Counsel and Defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: Mr. Griffin?

Mr. Griffin: If the Court please, with reference to Exhibit A-121, which is this folder dealing with March 31, 1950, and which I want to primarily use the first two sheets to show how he handled minus

(Testimony of L. Hicks Taylor.)

inventory in reports to Mr. Forster, I think your ruling was you couldn't see how anything in 1950 could be admissible.

The Court: That is on figures not related [4389] to 1949.

Mr. Griffin: Yes, sir.

The Court: The second offer, I take it, was on impeachment.

Mr. Griffin: That is true, but I wanted to use the sheets to show how Mr. Taylor made his reports on minus inventory, which he said were a flag to Mr. Forster. The Indictment period runs at least to March 15, 1950. Under the "Indictment," it is "Failed to file the filing, March 15, 1950, false and fraudulent returns for 1949." I would take it—

The Court: (Interposing) Aren't those figures, Mr. Griffin, relating solely to the 1950 income?

Mr. Griffin: That is true, sir. No question about that.

The Court: That was the basis of my ruling. If it had relation, of course, to 1949, it would be another matter.

Mr. Griffin: May I say to you, we have a whole folder for the year 1940—whatever the year was—'7 or '8, 1949, a whole folder of every month except the two months in question, where we had the work sheets only, and no reports. That is why I was trying to use the only example I could find of how Mr. Taylor reported [4390] it, and upon reconsideration, it occurred to us that inasmuch as the Indictment—the charge goes to at least March 15, 1950—

(Testimony of L. Hicks Taylor.)

that it would be material and should not be excluded simply because it is 1950.

The Court: I just don't see how over objection I could——

Mr. Griffin: (Interposing) I just want to make the statement to your Honor.

The Court: Yes. You may call the Jury.

(Whereupon, the Jury was returned to the court room.)

The Court: You may be seated.

It is stipulated that the Jury and all Defendants are present in the courtroom?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

The Court: You may proceed, Mr. Griffin.

Q. (By Mr. Griffin): Mr. Taylor, was it Mr. Quentin Ellis of the Peoples Bank and Trust Company, the credit manager, that called you into this secret conference?

A. That, I do not recollect.

Q. You do not recollect who you talked to?

A. No, I am not sure.

Q. You spent two or three hours, you say, in that [4391] conference?

A. No, I brought it back to my office and completed it, and then returned it to him.

Q. How did he happen to call you?

A. That I couldn't tell you.

Q. You have been doing business with the Peoples Bank and Trust Company for a great number of years, have you not, Mr. Taylor?

(Testimony of L. Hicks Taylor.)

A. Since I was ten years old, yes, Mr. Taylor.

Q. And with the credit department?

A. No, not hardly at ten.

Q. I didn't ask you anything about ten, Mr. Taylor. You have been doing business in the past fifteen years?

A. Oh, say, 30 years.

Q. Yes; and in a matter where you were making this sort of a financial statement that you have testified that you did, you have no recollection who the officer of the Peoples Trust and Savings Bank was with whom you conferred and who called you for a conference; is that right?

A. No, I just don't seem clear in my mind who it was.

Q. Mr. Taylor, in the financial statement of December 31, 1948, Exhibit 122, you state: "Issaquah Creamery [4392] Company, Sole Owner," do you not?

A. Yes.

Q. Apex Farms, 67 per cent?

A. Correct.

Q. Finstad and Utgard, sole owner?

A. Yes.

Q. Why "sole owner," Mr. Taylor, if Mr. Forster was not the sole owner of all the capital stock of Finstad and Utgard?

A. He was sole owner of a contract subject to a contingent liability to Mr. Egeness.

Q. Did you show any contingent liability to Mr. Egeness in Exhibit 122 where you refer to Finstad and Utgard, sole owner?

A. No, I do not.

Q. In Exhibit 123, Financial Statement, February 29, 1948, Finstad and Utgard, Net Worth,



(Testimony of L. Hicks Taylor.)

Sole Owner, you show no contingent liability, do you?      A. I believe not, but on the——

Q. (Interposing) I will get you the other one.

A. (Continuing) ——the other exhibit shows it.

Q. You realize the two I showed you were February 29, 1948, and December 31, 1948?

A. That is correct.

Q. In Exhibit 124, which is March 31, 1947, you do [4393] not show Mr. Forster as sole owner in Finstad and Utgard, do you?

A. I show the net worth, which is equivalent.

Q. Now, let's spell this out, Mr. Taylor.

The Court: Excuse me. Is that 124?

Mr. Griffin: 124.

The Witness: Yes, 124.

Q. (By Mr. Griffin continuing): In 123, February 29, 1948, you spell out Finstad and Utgard net worth, sole owner, don't you?      A. Yes.

Q. The identical language you use: "Issaquah Creamery, Net Worth, Sole Owner"?

A. Yes.

Q. In Exhibit 122, you spell out Issaquah Creamery Company, Sole Owner; Finstad and Utgard, Sole Owner"; don't you?

A. Correct. I might add to that that the reason that was changed to sole owner was at the request of the bank because I had been using Issaquah Creamery Company net worth. They requested that I put "sole owner."

Q. In Exhibit—and in neither 122 nor 123 do you show any contingent liabilities, do you?

(Testimony of L. Hicks Taylor.)

A. That was correct. [4394]

Q. Was that also at the request of the bank?

A. That I would not say definitely. I may have left it off, myself.

Q. The bank——

A. (Interposing) They had—they knew what the contingent liability was.

Q. The bank in obtaining a financial statement for the purpose of credit, is definitely interested in liabilities, isn't it?

A. That is the usual contention, yes.

Q. Well, liabilities, actual and contingent, isn't it?

A. In most cases, where the bank itself does not hold all the contingent liabilities.

Q. In Exhibit 124, you simply say "Finstad and Utgard, Incorporated, Net Worth," and then at the bottom, contingent liabilities, \$281,280.25; is that correct?

A. That is correct.

Q. Do you know what items made up the contingent liabilities?

A. Well, I had a work sheet that showed it.

Q. Do you know now?

A. My recollection is I do not know. As I remember it, there were a number of items that made it up. [4395]

Q. Excuse me. Would your work sheet show Finstad and Utgard in those contingent liabilities, Mr. Taylor?

A. To the best of my recollection, I think it did.

(Testimony of L. Hicks Taylor.)

Q. I hand you—I will ask you if Exhibit 252 is your work sheet for February 28, 1948?

A. This is my pencil handwriting, yes.

Q. And that shows—excuse me—Finstad and Utgard, net worth, sole owner, doesn't it?

A. Yes.

Q. And shows contingent liabilities, \$190,000, doesn't it?      A. Yes.

Q. It doesn't show Finstad and Utgard in contingent liabilities, at all, does it?

A. As I tell you, in my work sheets, I must have the distribution. I am not going to say positively it is there, because I cannot remember exactly what made up the contingent liabilities.

Q. Mr. Taylor, your work sheet is—your work sheet, Exhibit 252, is dated February 28, 1948, isn't it?      A. Yes.

Q. And that is the one that shows contingent liabilities, \$190,000? [4396]      A. That is correct.

Q. You made the printed copy, and dated it the following day, February 29, 1948, didn't you, Exhibit 122—123?      A. Yes.

Q. You did not include contingent liabilities upon the typewritten sheet, did you?

A. No; it is my recollection that there was some comment about it.

Q. By whom?

A. At the bank; not to put it on, that it was not necessary for that particular statement.

Q. I thought the purpose of the statement, Mr. Taylor, in your long explanation before the recess,

(Testimony of L. Hicks Taylor.)

was that the bank called you secretly and wanted you to help them so that they would not have to make a loan to Mr. Forster; isn't that right?

A. No; that wasn't what I intended to say. I intended that they did not want to make an additional loan to Mr. Forster.

Q. So, at the bank's request, they requested you to leave off \$190,000 of contingent liabilities because they didn't want to make an additional loan, is that right?

A. Well, no, I don't believe that that is so.

Q. The \$190,000 in contingent liabilities, Mr. [4397] Taylor, would detract from the value of the financial statement, wouldn't it?

A. Not necessarily, Mr. Griffin. If all the contingent liability belonged to the bank, it wouldn't detract or help. If it contained many others, it might have its effect with the loan committee at the bank.

Q. Do you know Mr. D. O. Beck of the Credit Department of the Peoples Bank and Trust Company?

A. D. O. Beck?

Q. Yes.

A. I am not sure that I do. That name doesn't register.

(Whereupon, there was a brief pause.)

Mr. Griffin: Sorry; my finger slipped, and I lost my place.

(Whereupon, there was a brief pause.)

Mr. Griffin: I am sorry; my finger slipped while I was looking for the number of the exhibit.

A-2 is not in?

The Clerk: No.

(Testimony of L. Hicks Taylor.)

(Whereupon, there was a brief pause.)

Q. (By Mr. Griffin): Do you recall any of the officers at the Peoples Trust and Savings Bank with whom you conferred [4398] relative to Mr. Forster's financial situation other than the two gentlemen who testified in this case?

A. I believe that Mr. Strack and Mr. Donaldson were practically the only ones except this one time, as I remember it.

Q. Do you recall that at this one time, that you were called over, as you referred to, secretly, that that gentleman took notes?

A. I do not remember anything about that. He may have.

Q. And it would be only with that one man in the bank, whose name you don't remember, that you were called over secretly and with whom you conferred, is that correct; just the one?

A. As I remember it.

Q. Aside from Strack and Donaldson?

A. I had some 35, or 30, accounts that went through that bank, so that it is pretty hard for me to single out who I might have talked to.

Q. You knew that the bank depended upon you in any information they wanted in regard to Mr. Forster's financial affairs, didn't you?

A. I wouldn't say, altogether.

Q. By the way, you—Mr. Taylor, you were the trustee under the Hans Forster trust, weren't you?

Mr. LeSourd: Objected to, your Honor, as im-



(Testimony of L. Hicks Taylor.)

proper cross-examination, and irrelevant and immaterial.

The Court: Objection overruled. I don't know how extensive it may be. I think it was covered by reference in direct, was it not?

Mr. LeSourd: No, it wasn't your Honor. Not involved in the case, and not covered.

The Court: What would be the purpose of this, Mr. Griffin?

Mr. Griffin: I would propose to show his familiarity, which is part of his familiarity with the Hans Forster family, his relationship which he says was in nowise social, and what he did in connection with acting in the matter of the trust, inasmuch as he handled that entire matter, and handled the books of the trust.

The Court: In a limited fashion, I think the Court would overrule the objection. I think any extensive examination, unless something further is shown, would not be proper.

Mr. Griffin: I will try and make it brief, and go to the point that I want.

Q. (By Mr. Griffin continuing): You were the designated co-trustee in the Hans Forster trust established for his children, weren't you?

Mr. LeSourd: We object, your Honor. [4400]

Mr. Moriarty: We join in the objection, your Honor.

The Court: Objection overruled, in lieu of the Court's comment if examination is extended.

(Testimony of L. Hicks Taylor.)

Mr. LeSourd: May we have a continuing objection to this, if the Court please?

The Court: Yes, you may. If you will not object any further, the Court will undertake its own guidance of the examination.

Q. (By Mr. Griffin continuing): You kept the books of the trust and made the income tax for the trust, didn't you? A. Yes.

Q. All income for the trust came in a lease of the trust property to the Alpine Dairy of which you kept the books, didn't it, of which you made the tax returns?

A. The rent was paid by the Alpine Dairy to the trust.

Q. Yes; and you had charge, as trustee, of the trust bank account, didn't you?

A. That is so, yes.

Q. So that you knew then the amount of rent being paid by Alpine Dairy to the trust, didn't you?

A. Yes.

Q. The amount paid by Alpine Dairy to the trust [4401] was chargeable on the books of the Alpine Dairy as rent, wasn't it? A. Yes.

Q. On the books of the trust as income?

A. Yes.

Q. Mr. Taylor, in the year 1947, did you show on the books of the Alpine Dairy rent expense of \$6,500? A. Yes.

Q. But in the trust account, only income of five thousand five hundred?

A. That is correct.

(Testimony of L. Hicks Taylor.)

Mr. Griffin: Will you mark this check for identification?

The Clerk: Defendants' Exhibit 123 marked for identification.

(Defendants' Exhibit 123 marked for identification.)

Q. (By Mr. Griffin): Handing you Exhibit 123 for identification, I will ask you what that is, Mr. Taylor?

A. That is a check made out to L. Hicks Taylor, Trustee, by the Alpine Dairy for \$500.

Q. And the date of it? A. 3-10-50.

Q. And that is one of the income checks to the [4402] trust? A. That is correct.

Q. Deposited by you, Mr. Taylor, to your personal bank account, is that right?

A. That is endorsed, L. Hicks Taylor, Trustee.

Q. And deposited by you, Mr. Taylor, to your personal bank account, wasn't it?

Mr. LeSourd: I want to be sure, your Honor, that our objection runs to this. As we said before, it is all irrelevant and immaterial, and improper cross-examination, and outside the period, and——

The Court: (Interposing) What is the date of it?

Mr. LeSourd: If the Court lets it in, we want our record to show all this.

Mr. Griffin: March 10, 1950. This is within the Indictment period; prior to March 15th.

The Court: I will sustain objection until a further showing is made.

(Testimony of L. Hicks Taylor.)

Mr. LeSourd: By questions and answers, he attempted to bring out what he claims to be a situation in 1950, and it is highly prejudicial, your Honor, and over our objection.

The Court: Well, I will hear further from Counsel. [4403]

However, as far as the Jury is concerned, any evidence up to this time in regard to this check should be disregarded by the Jury, and, unless subsequently the Court considers a matter, that does not come in as evidence.

Mr. Griffin: Does your Honor understand my position without stating it?

The Court: I don't want to make a final ruling until I give you an opportunity, but to avoid any possible misunderstanding, I have given the Jury that instruction.

Mr. Griffin: You don't want me to state the position?

The Court: I suggest you pass it, if you can.

Mr. Griffin: All right.

The Court: (Continuing) Until you finish, or at least, until recess.

Q. (By Mr. Griffin): Mr. Taylor, the trust, from the time it was established, had a separate trust bank account in the Peoples National Bank of Washington, did it not?

Mr. LeSourd: Your Honor, it is understood that our objection is continuing on the same grounds previously stated?

(Testimony of L. Hicks Taylor.)

Mr. Moriarty: The Government joins in the [4404] objection.

The Court: Well, the Court doesn't know the purpose, and in cross-examination, cannot go into the purpose of every question, and there may be many matters gone into in cross-examination that may go to various proper items, and, therefore, the Court isn't going to sustain the objection at this time. If it appears it is improper, the Court will ask him that it be stricken, and so instruct the jury. You may proceed.

Q. (By Mr. Griffin continuing): And you had a personal bank account in the Peoples National Bank of Washington, at the same time? A. Yes.

Mr. Griffin: Now, in the absence of the Jury, I will state the purpose of the interrogation, if the Court please.

May I see the tax returns, if the Court please, of Forster, personally?

The Clerk: That is one, two and three?

Mr. Griffin: That is Exhibit 3.

Q. (By Mr. Griffin): Mr. Taylor, in the tax return of Hans Forster, as filed for the year 1947, being Exhibit 3, you increased the sales—— [4405]

Mr. Griffin: This is coming off.

(Whereupon, the Clerk stapled the exhibit together.)

Q. (By Mr. Griffin continuing): ——you increased the sales, that is, Alpine Dairy, by thirteen thousand dollars over the amount appearing in your work sheets and the general ledger, didn't you?



(Testimony of L. Hicks Taylor.)

Mr. LeSourd: Objected to, your Honor, as improper cross-examination, and irrelevant.

The Court: Objection overruled.

A. That is rather hard to answer from just a plain question. It would need some work sheets or something else to refresh my memory.

Mr. Griffin: The general ledger is 72?

The Clerk: Here it is.

The Witness: Do you have the work sheet?

Q. (By Mr. Griffin): Well, you can examine the ledger on that question without the work sheet, can't you, Mr. Taylor?      A. We will see.

Q. Now, so that we know, Exhibit 3——

The Court: (Interposing) The ledger exhibit is number?

The Clerk: 272. [4406]

The Witness: 272.

(Whereupon, there was brief pause.)

The Witness: (Continuing) That is correct.

Q. (By Mr. Griffin): Why did you change the tax return, which you say is based upon the general ledger, in that item of \$13,000, different from your general ledger?

A. That was an adjustment relative to either the schools or a group of loans were not set up. One or the other. I am not positive.

Q. One of your manipulation of figures?

Mr. LeSourd: Object to the form of the question.

The Court: Objection sustained.

Q. (By Mr. Griffin continuing): Well, that is

(Testimony of L. Hicks Taylor.)

what you did, wasn't it, Mr. Taylor, to change figures?

A. It is a fact that I changed, yes, the figure that belonged in the books.

Q. You did not change the ledger, did you?

A. I probably didn't go back and post the entry from the work sheet, no, which has been done a numbers of years here.

Q. It was your custom, month by month, and year-end, to analyze and change figures, wasn't it?

A. Only where it came to my attention.

Q. Where it—whether it was sales, inventory, depreciation, accounts payable, or accounts receivable, you did it right along, didn't you?

A. No, I did not.

Q. Did you at any time reconcile the bank accounts, cash in bank, Issaquah Creamery, with your ledger?

A. I did not.

Q. Or of Alpine?

A. I did not.

Q. Or of any of the Forster enterprises?

A. Oh, I would say some, I did, yes.

Q. What ones?

A. Where I didn't have people that were competent to do it, I did it.

Q. In which enterprises of Mr. Forster did you reconcile the bank account against the ledger kept by you?

A. A very good example is the Renton Ice and Ice Cream.

Q. You did that on each statement?

A. As far as I can remember, yes.

(Testimony of L. Hicks Taylor.)

Q. Why did you do it?

A. Because I didn't have someone competent to do [4408] the job down there.

Q. You recognized then that there should be reconciliation definitely between bank accounts, cash on hand, and the ledger, didn't you?

A. I practised accounting thirty years. I know some of the principles, but that wasn't my assignment with the Issaquah Creamery and the Alpine Dairy.

Q. You knew and recognized the principle of the necessity of a reconciliation, didn't you?

A. It was not my duty, as I am telling you.

Q. My question is, Mr. Taylor, as an accountant, you knew the necessity of reconciliation between the bank account, cash on hand, and the ledger, didn't you?

A. Yes.

Q. Mr. Taylor, you kept the ledger under your control in your office, didn't you?

A. Correct.

Q. How could Harold Erickson at Issaquah reconcile the bank account with the ledger kept in your office and under your control?

A. Mr. Griffin, Mr. Erickson's bank account and mine were always in agreement.

Q. With minus cash?

A. Minus cash is something altogether different than a bank account.

Q. Did you reconcile them then, Mr. Taylor?

A. I did not. I have admitted I did not reconcile the banks.

(Testimony of L. Hicks Taylor.)

Q. All right; you say that your ledger was in accordance with Mr. Erickson's what?

A. Journal.

Q. Journal; well, it had to be if you just copied the figures from the journal into the ledger, didn't it? And copied them correctly?

A. Correctly?

Q. Yes; there wasn't anything to do with reconciliation as between the bank account, the journal and the ledger, was there? You simply copied figures?

A. They were supposed to have been reconciled for me.

Q. When, to your knowledge, Mr. Taylor, did Mr. Erickson ever reconcile the bank account with his figures in the journals?

A. I don't recollect.

Q. When did you ever inquire of Mr. Erickson whether he had reconciled the bank account with the figures in the journal, if ever?

A. That I don't remember.

Q. Also, it is necessary to reconcile accounts payable, and accounts receivable?

A. Sure; that is the office force's duty. It [4410] wasn't mine.

Q. The office force of which you have stated that you considered Mr. Erickson competent?

A. I think so.

Q. And employes under him competent?

A. As far as I know.

Q. And you relied on them, did you?

(Testimony of L. Hicks Taylor.)

A. Yes.

Q. Just as Mr. Forster relied on you, is that right?

A. I would say that Mr. Forster relied on the whole organization. He was at the head of it.

Q. To your knowledge, Mr. Taylor, were the accounts receivable and the accounts payable of the Issaquah Creamery ever reconciled?

A. One that I know of is one that I did myself in 1932, I believe.

Q. 1932; subsequent to 1932—22 years ago—do you know of any reconciliation of accounts receivable and accounts payable of Issaquah Creamery?

A. No, I do not.

Q. Alpine Dairy?

A. No; Alpine Dairy accounts receivable reconcile continuously.

Q. Did you reconcile the so-called “paid-outs” [4411] and “paid-ins”?

A. The “paid-outs” and “paid-ins” were properly taken care of in those records.

Q. You checked them, did you?

A. No, I did not check them. Mrs. Wilcox had charge of the office, and knew what she was doing.

Q. Just the same as Mr. Erickson knew what he was doing?      A. Absolutely.

Q. Do you say now that the accounts receivable and accounts payable were reconciled at Alpine Dairy?

A. There was a running reconciliation kept of those accounts.



(Testimony of L. Hicks Taylor.)

Q. By whom? A. Mrs. Wilcox.

Q. But not at Issaquah; is that right?

A. No; accounts receivable, I do not know much about what happened at Issaquah.

Q. Well, the Alpine Dairy accounts payable were payable through Issaquah, weren't they?

A. That is correct.

Q. Why didn't you see to it, then, Mr. Taylor, that there was a reconciliation at Issaquah, at least, of the Alpine Dairy payables?

A. I accepted the figures given to me. I did not [4412] audit those books at any time.

Q. And you proceeded on the basis that Mr. Forster owed a higher duty than you owed him as an accountant, is that correct?

A. I gave him the service that he requested.

Q. We went into the matter of your original employment, Mr. Taylor. Was there ever any change?

A. We started in 1940 with a proper assignment, yes.

Q. You started in 1932, didn't you?

A. That was not the same assignment as 1940.

Q. Mr. Taylor, is it your testimony that in your relationship to Mr. Forster professionally that he owed you a greater duty than you owed him?

A. I would say "no", that we owed it equally to each other.

Q. You owed a duty to him, to see that he made correct income tax returns, didn't you?

A. And my tax returns agreed with the ledger.

(Testimony of L. Hicks Taylor.)

Q. And your ledger agreed with nothing, did they, Mr. Taylor, except themselves at times?

A. I disagree with you on that.

Q. You didn't record the acquisition of the Daisy Ice Cream Company on the books of Alpine until January 31, 1946, did you? [4413]

A. That I cannot say; I don't remember.

Q. Well, you handled the purchase of the Daisy Ice Cream, didn't you, as you heretofore testified?

A. Yes, I handled the operation, yes.

Q. And that was May 1, 1934, wasn't it?

A. When was it?

Q. 1944?

A. I guess so. I have forgotten definitely.

Q. Why did you delay between May 1, 1934, and assume my date is correct, and January 1, 1946——

Mr. LeSourd: (Interposing) Just a moment.

Mr. Griffin: Just a moment, Mr. LeSourd.

Q. (By Mr. Griffin continuing): ——in entering the acquisition of Daisy Ice Cream Company as an asset in Mr. Forster's enterprises?

Mr. LeSourd: Object to the form of the question. It can't be asked on Mr. Griffin's assumption. He can be asked what he knows, or what the facts are.

Mr. Griffin: I will withdraw the question. I don't intentionally misrepresent to the Court.

Q. (By Mr. Griffin): Mr. Taylor, what period of time elapsed approximately before you entered Daisy Ice Cream as an [4414] asset upon the books of Alpine Dairy?

A. I don't remember.

Q. Several months?

A. I don't know.

(Testimony of L. Hicks Taylor.)

Q. Mr. Taylor, without a reconciliation at Issaquah of payables, how could Mr. Forster know that items chargeable to his drawing account personally were charged otherwise; how could he know?

A. I don't know.

Q. Mr. Taylor, upon the Alpine Dairy ledger, did you charge or credit donations to advertising?

A. Not to my knowledge.

Q. Did you credit donations at all?

A. They were handled through Mr. Erickson's journals, and charged to whatever account was proper, so far as I know.

Q. You never went into those accounts?

A. I did not. I was not auditing those books.

Q. I am not asking——

A. (Interposing) I am answering that way.

Q. You were not auditing books, but you were analyzing figures, is that it?

A. After they came into my possession.

Q. And no analysis that you ever made ever caused you to go back and look into the books of either Issaquah [4415] Creamery or Alpine Dairy to find the basis of why you had to analyze, is that right?

A. I never analyzed from the books. I analyzed from the figures I took for the general ledger.

Q. But, I say, nothing——

Mr. Griffin: (Interposing) Strike that.

Q. (By Mr. Griffin continuing): You analyzed them year after year from the figures you had?

A. From my ledger, yes.

(Testimony of L. Hicks Taylor.)

Q. Mr. Taylor, what was the purpose of that analysis?

A. To analyze the operation for the year, increase and decrease in net worth.

Q. Is that your complete answer?

A. It is enough, yes.

Q. What was the purpose of analysis of the monthly statements?

A. To give Mr. Forster an idea of his progress.

Q. Well, how could he have an idea of his progress, Mr. Taylor, if Mr. Erickson showed certain inventory—actual figures—and showed certain sales and you analyzed and changed those figures? How could that help or show Mr. Forster his progress, or lack of progress? [4416]

Mr. LeSourd: If your Honor please, may the record show our objection, the same objection as before, to this line of questioning—irrelevant and immaterial, and improper cross-examination?

The Court: I might say it seems to be extending longer than I thought. When I consider how far we have gone with this, Mr. Griffin, I am inclined to put some limitation upon it. I will overrule the objection.

Mr. Griffin: I agree with your Honor. I agree. Did you sustain objection to my question?

The Court: No, I didn't sustain objection. Do you wish the question?

The Witness: I think so.

The Court: Mr. Reporter, read the question.

(Testimony of L. Hicks Taylor.)

(Whereupon, preceding question was read by the reporter.)

A. No figures were changed from the figures actually presented.

Q. (By Mr. Griffin): Mr. Taylor, can there be negative cash?

A. Yes, you bet you, there can be negative cash.

Mr. LeSourd: Just a minute, your Honor. The answer came before I could object. I want [4417] my same objection to show and move to strike the objection and answer on the same ground.

The Court: The answer having been given the Court would deny the motion.

Q. (By Mr. Griffin): That is, a business may have actually ten dollars or ten thousand dollars in cash, physical cash, and it could still be negative cash, is that right?

Mr. LeSourd: Just a moment. May we have a continuing objection to this, to save interrupting?

The Court: The Court will sustain objection if you object to this question.

Mr. LeSourd: Well, I object to it on the same grounds.

Q. (By Mr. Griffin): Can there be negative cash where physically there is actual cash?

Mr. LeSourd: Same objection.

The Court: Wasn't this covered, Mr. Griffin, earlier?

Mr. Griffin: Not with this witness to my recollection.



(Testimony of L. Hicks Taylor.)

The Court: Didn't you cover it in part with negative inventory?

Mr. Griffin: Negative inventory is entirely different [4418] from negative cash.

The Court: Wasn't this covered in part at the same time?

Mr. Griffin: I didn't mean to, if I did.

The Court: Mr. LeSourd's objection is on another ground, isn't that right?

Mr. LeSourd: My objection is, it is improper examination and irrelevant and immaterial to the case.

The Court: Objection overruled.

The Witness: May I have that question now?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. That is an answer of "yes" and "no." It takes two answers to answer that question.

Many sets of books contain what they call a petty cash account, which is the drawer cash, or the cash lying in the business from which small expenditures are made from. That particular cash account is a definite and conservative account, replaced as a rule every three days, to bring it to a certain balance. That cannot have a negative cash.

The cash account generally carried in the ledger is like any account of a business. Through application of certain collections, certain cash items [4419] transferred to the bank before they are entered on the detailed books, you take your journal, apply

(Testimony of L. Hicks Taylor.)

your deposits—and many times your cash account will show a credit which is not an error. It is merely the fact of the delay in entering cash receipts and crediting it to sales or to accounts receivable. It does not mean there are any errors in the books. It does not affect the income tax in any way. It is merely a book entry upon which adjustment is made, and if it cannot be adjusted, it must be developed and created into some other type of an account, such as an account payable, note payable, or some other type of an account.

Q. Mr. Taylor, you did not include the Werner-Murphy note as upon the books of Alpine Dairy, did you? By “books” now, I am referring to the ledger.

Mr. LeSourd: Objected to, your Honor, improper cross-examination and irrelevant and immaterial.

The Court: I will sustain the objection.

Mr. Griffin: I would like to talk to you about this for about two minutes, if you would like to adjourn now.

The Court: All right.

Mr. Griffin: I would like to show a continuity, believe it or not, for the purpose of getting through.

The Court: Ladies and Gentlemen of the Jury:

We will adjourn now until tomorrow morning at 10:00 o'clock, and the Court calls your attention to the admonition given on previous occasions, and asks that you heed it on this occasion.

(Whereupon, the Jury retired from the court room.)

The Court: It is stipulated the Jury have left the courtroom?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

Mr. Griffin: I assume, your Honor might think that was going afield. The point is different in regard to that item. What Mr. Taylor did—I make the statement now, and he can be prepared tomorrow, if you change your mind—the evidence in chief of the Government showed the Werner-Murphy indebtedness, and the interest connected with it. Werner-Murphy are the Basketball——

The Court: (Interposing) Yes.

Mr. Griffin: Yes. Mr. Taylor did not enter that note as an asset upon the books of the Alpine Dairy, but he did deduct it—deducted the five thousand portion of that item from the income of Alpine Dairy. He didn't record it in the general ledger. It is just one of those items which he did with figures whatever he saw fit,—now, in the absence of the Jury,—in the [4421] manipulation of income and expense. It goes to that kind of sloppy book-keeping, and I will use that term because I will have it tomorrow when I reach that phase of this matter with Mr. Kachlein.

Now, it seems to me that that is material. It is one item that is direct. The documents are in evidence. The Werner-Murphy note is part of the Government's case, and one of the items going into unpaid income.

Mr. Patten: Net worth.

Mr. Griffin: Net worth. And I propose to show,

if permitted, just how Mr. Taylor lackadaisically handled the matter. That is No. 1.

No. 2: On the \$500 check that you are holding in reserve, the trust check, I take it, the fact that Mr. Taylor took and cashed \$500 in trust funds out of this trust account goes to his credibility, if nothing else.

This \$500 is one of \$1500 missing from that account, of which we were able to find only this \$500 check. The other two checks, we could not find. It seems to me that that goes directly to credibility.

The Court: On that matter, Mr. Griffin, if it were admitted, wouldn't it introduce another issue? Wouldn't they be in a position to go into that matter?

Mr. Griffin: I would say that he could go into it [4422] and explain what he did with \$500 in trust funds.

The Court: Well, it seems to me, without knowing, of course, what the circumstances are, that it is one of those matters that may add to an already heavily burdened——

Mr. Griffin: (Interposing) I appreciate that, but my position is this, in regard to that particular item, and it goes to the heart of this case:

It seems to me, from the Jury's standpoint, when we are through, that the trust and confidence that Mr. Forster placed in this man is evidenced in one item, by naming him as trustee of this trust, and where that trustee takes a trust check belonging to the trust, and deposits it to his personal account, it is very material. When that is discovered, if the

Court please, as to why—and it wasn't discovered until after this accounting was had,—as to why Mr. Forster lost faith subsequent to April 21, 1949—1950—in Mr. Taylor.

Mr. Taylor's defense here has been an attack upon Mr. Kachlein throughout.

The Court: I understand, and that is the basis upon which much of this testimony has come in.

Mr. Griffin: And that is one of the things, perhaps, as much as anything else, because irrespective of what a Jury may think when we are through, Mr. Forster [4423] doesn't understand very much what he has heard in this courtroom about the books, but he did understand that when a man takes \$500 from a trust fund he has set up for his children, he has lost faith in that individual.

That is those two items.

I appreciate your Honor's position in that matter. I think on that one, it is very important. Mr. Taylor may have an explanation. I don't know.

Mr. Moriarty: The Government strongly objects to this item.

The Court: Speaking of the check?

Mr. Moriarty: On the check and the inference that follows, and it is after the Indictment period and similar acts wouldn't have anything to do with this. It would be prejudicial to Mr. Taylor, and the Government is interested in protecting this record.

The Court: I understand. I hope you are, Mr. Moriarty. In admitting a certain amount of this testimony on cross-examination, one basis for it has



been the attack on Mr. Forster's defense, and I think I have permitted a wide latitude, which I know Mr. LeSourd agrees with, the fact that there has been wide latitude. I do feel there has to be some limitation on the matter, and that is why I think the time has come where we have to sustain objection to some of these individual items that possibly could come in on the same theory, but inasmuch as [4424] time is passing, and we have gone over a very—the books, I think, quite extensively, and all the transactions, I believe that the Court is justified, and should restrict now any item other than those that might be very material and relevant to a particular defense, or issue, involved, and I am inclined to adhere to both of my rulings.

Mr. LeSourd: If the Court please, I have a motion for mis-trial to make. Do you wish to hear it now, or in the morning?

The Court: If you wish.

Mr. LeSourd: It makes no difference.

The Court: We might as well hear it now.

Mr. LeSourd: Yes. The Defendant Taylor, your Honor, at this time moves for a mis-trial on the following several grounds:

The first is that over our continuing objection Mr. Griffin was permitted to ask questions and elicit answers with regard to the Hans Forster trust, the taxes on which are not involved here, and particularly with regard to the asserted diversion of a \$500 check in 1950, and we feel that your Honor's later caution to the jury, however proper, still does not

relieve the situation of its prejudicial effect so far as this defendant is concerned. [4425]

A second ground for our motion is the fact that continually Mr. Griffin in his examination has brought out information from documents which were not admitted, and many of which were later not admitted, by his manner of questioning, which we think is highly improper and prejudicial, and is grounds for a mis-trial.

Certainly, your Honor, it would be grounds for a mis-trial if done by the prosecuting official, and we feel Mr. Griffin is in the same shoes as far as this defendant is concerned, and many of the questions which Mr. Griffin has asked, were highly prejudicial, and likewise grounds for a mis-trial if done by the prosecuting or district attorney, and I think the same situation exists here.

And another ground is that this witness has been required to go far beyond his direct examination in answering questions about a myriad of matters that have nothing to do with the matters covered in the scope of his direct examination, and have nothing to do with the issues actually involved here in this case.

The Court: Well, the Court will deny the motion.

As I have indicated, I realize that the scope permitted [4426] on cross-examination of this witness, has been broader than it might have been under other circumstances. I feel, in the nature of the case, and the nature of the position of the parties, that the defense has made, and the charge as made

against the defendants, makes advisable and proper the evidence permitted.

Considering other grounds, the Court likewise calls attention to the fact that cross-examination of a witness on the stand, such as Mr. Taylor, or anyone similarly situated, requires a rather exhaustive and unusual cross-examination to bring out. [4427]

\* \* \* \* \*

### L. HICKS TAYLOR

upon being recalled as a witness for and on behalf of the Defendant Taylor, and having been previously duly sworn, testified as follows:

#### Cross Examination—(Continued)

Q. (By Mr. Griffin): Mr. Taylor, you prepared a balance sheet, Issaquah Creamery, for November, 1949, did you not?

A. Yes, as I recollect.

Q. And for December, 1949?

A. Yes, as I recollect.

Q. And a year-end statement for the year 1949?

A. Yes, as I recollect, that is true.

Q. Now, as I recall your testimony on the last Saturday in January, 1950, you went out to Issaquah Creamery as usual, at which time you prepared your work sheet for December; was that correct?

A. Yes.

Q. November—the month of November, 1949, showed a loss of approximately ten thousand dollars, did it not?

A. I would like to see the sheet to pass on it, please.

(Testimony of L. Hicks Taylor.)

Q. I am handing you Exhibit 259-A, and the actual amount, \$9,953.62; correct? [4436]

A. Yes, it showed a loss of \$9,953.62.

Q. And the month of December, as you computed the matter, showed a profit of approximately twenty thousand dollars; is that correct?

A. May I see the exhibit, please?

Q. Have you——

Mr. LeSourd: (Interposing) Well, just a moment. Are you going to let him answer the question?

Mr. Griffin: I am not asking for an answer now.

Q. (By Mr. Griffin continuing): Have you—where, Mr. Taylor, would we find—you are asking for an exhibit—where would we find your work sheet for the month of December, 1949, if there was one?

A. Apparently that is the sheet you have right there.

Q. Well, Mr. Taylor, referring to Exhibit 259, Issaquah Creamery, this is what you call, is it not, and have testified to as the year-end statement, December 31, 1949?

A. Yes; this is a work sheet that displays the closing figure and the final figure of the Issaquah Creamery for December 31, 1949. There were probably typed reports made from this forwarded to Mr. Forster. [4437]

Q. There isn't anything on this sheet that you just requested, Exhibit 259, that shows either the profit or loss for the month of December, is there?

(Testimony of L. Hicks Taylor.)

A. No; as I have testified continually, I did not make separate monthly statements. They were cumulative statements for the year to date.

Q. Then my question, before your counsel interrupted me, was: Where, Mr. Taylor, would we find, if there was one, or did you make, a statement for the month of December, 1949 comparable to the one you made for November, 1949?

A. They have—those two statements are similar in effect. One is accumulated through November, and the other is accumulated through December.

Q. Correct, if so, but the November statement, as well as all of your monthly statements, carried either a profit or a loss for the month, didn't they?

A. Sometimes I marked the previous profit and showed a profit for the month, yes.

Q. Was there any monthly statement that you submitted over all these years, Mr. Taylor, in which you did not show the profit or loss for that month?

A. It is possible that I did it in all of them. I don't know.

Q. Yes. [4438]

A. I wouldn't from recollection know for sure.

Q. Mr. Taylor, in all the years that you prepared these statements, you have no recollection whether in your monthly statements you consistently showed either a profit or a loss; you have no recollection on it?

A. I didn't say I didn't have a recollection.

Q. Well, you have a recollection, then, that you



(Testimony of L. Hicks Taylor.)

did, on each monthly statement, show the profit and loss?

A. As far as I know, from recollection I did it each month. I didn't say I didn't do it.

Q. All right; now, have you any recollection whether you made a monthly statement for December, 1949?

A. I don't have a recollection of it, because it was the close of the year, and I don't believe it was necessary. I may have, and I may not. I am not sure.

Q. Have you any recollection as to what amount was either profit or loss in the month of December, 1949?

A. I recollect that I testified that the difference in the figures was somewhere near \$25,000, if I remember right, loss.

Q. \$25,000; \$25,000 loss in December?

A. If I recollect correctly, yes.

Q. You heard Mr. Forster's testimony, did you, that your figures showed a profit of \$20,000 in December? [4439]

A. I heard him testify to that, yes.

Q. And that he said to you there could not be a profit in December considering the loss in November; did he so state to you?

A. No, that was not in discussing that matter as I remember it.

Q. All right; now, as I understand your testimony in presenting, or, rather, in discussing—

Mr. Griffin: Strike that, if you will.

(Testimony of L. Hicks Taylor.)

Q. (By Mr. Griffin continuing): On this last Saturday in January of 1950, you would have before you, if I understand your testimony, your work sheet, perhaps, for November 30, 1949?

A. That is possible, yes.

Q. Mr.—you would have submitted to Mr. Forster the typewritten report for November, 1949?

That would have been submitted sometime—as I understand—in December, is that correct?

A. Yes, as near as I can remember.

Q. Exhibit 259, you would make up on this last Saturday in January out at Issaquah?

A. Yes, that is correct.

Q. And, of course, Mr. Forster would have no figures as to this year-end statement, or December statement, except as you advised him what [4440] your analysis was?

A. That is correct.

Q. All right; so, as I understand your testimony, you advised him that—or, what did you tell him it looked like the profit was going to be for the year?

A. As I remember it, it was around \$100,000.

Q. And that was after you carried a loss in November of \$9,953.62 and \$25,000 in December, is that right?

A. Well, the twenty-five is just a recollection.

Q. I understand that.

A. Yes, that is correct.

Q. And Mr. Forster said that that profit was impossible, is that correct?

A. As I remember, that was his remark, yes.

Q. That it was not in the cards to make that

(Testimony of L. Hicks Taylor.)

much money?           A. Yes, that is true.

Q. That the sales for the year 1949 were approximately the same as the sales for the year 1948?

A. No, I am not sure that that was discussed.

Q. And he said that the costs of operation were approximately the same in 1949 as in 1948?

A. It is possible that it was discussed, but I do not remember that part of it. [4441]

Q. And he said to you that there must be a mistake somewhere?

A. That is correct. He made that statement.

Q. And you assured him there was not?

A. I assured him that those figures agreed with my ledger.

Q. And he said that he guessed he would have to get another accountant to check it, didn't he?

A. Not exactly that way. He said he thought he would get another accountant to check it.

Q. All right; he was very definite that there was something wrong with your bookkeeping at that point, wasn't he?

A. Not my bookkeeping. He said, with the profit.

Q. And you said that you would check it, didn't you?           A. I did not.

Q. Did you check it?           A. I did not.

Q. Didn't you testify that you went back to your office and you compared the 1948 sales with the 1949 sales?           A. Yes, in March.

Q. And you found—that is what I am talking

(Testimony of L. Hicks Taylor.)

about—what you did—and you found that the difference [4442] —that there was two million three hundred and some odd thousand sales in one year, and two million another, and they were comparable? A. Yes, I testified I did that in March.

Q. And that your statement—or, you examined the income tax returns, didn't you, for 1948, or whatever you had to examine to ascertain what the net income was?

A. Yes, because it is necessary to have the previous year's tax return in front of you when you are making out the current year's tax return.

Q. And you found that the sales were the same and the cost approximately the same, and that your figures, at least, showed almost 100 per cent more profit in 1949 than in 1948, didn't you?

A. The first calculation would have shown that, yes.

Q. That is what I am referring to. The calculation that you calculated on this last Saturday in January out at Issaquah?

A. Yes, I will agree with you.

Q. Well, with the sales approximately the same, gross sales, and the cost of doing business approximately the same in the two years, were you at all disturbed about 100 per cent difference in net income according to the calculations for the year 1948, or 1949? [4443]

A. It did not disturb me, no.

Q. Well, you were quite tax conscious, were you not, Mr. Taylor, in January, February and March

(Testimony of L. Hicks Taylor.)

of 1950? A. Yes, most accountants are.

Q. You were particularly, weren't you?

A. Possibly at that time.

Q. Yes, and you were not then at all concerned with either Mr. Forster's complaint that a mistake had been made some place, and that at his suggestion, he would get another accountant, in effect, to find it if you didn't? A. He didn't.

Q. No, he didn't get another accountant, did he?

A. No.

Q. After going over the 1948 statement, as you retained it in your office, after you came back from Issaquah and in comparing it with your calculation that you made of \$101,000 of profit, you called Mr. Erickson and told him to make at least a \$50,000 change in either receivables or payables; didn't you? A. That is not true.

Q. Now, handing you Exhibit 259, that shows upon its face alterations, changes, of material figures, from the original, doesn't it? [4444]

A. That is correct.

Q. Who made those changes?

A. Nobody but me.

Q. When did you make them?

A. Sometime in March of 1950.

Q. And, as I understand your testimony, you examined no record, book or document at this time or immediately preceding the making, your changing these figures upon your work sheet?

A. Those figures were changed from figures presented to me.



(Testimony of L. Hicks Taylor.)

Q. My question is:

That you made no investigation, check, or anything else, of any book, document or record, of the Issaquah Creamery Company, at the time and immediately preceding your making those changes of figures, did you, Mr. Taylor?

A. No, I did not.

Q. And you were using and intended to use Exhibit 259 and the figures shown thereon for income tax purposes for the year 1949 in making the Issaquah Creamery Company return, weren't you?

A. Yes, I made it, and Mr. Forster approved it.

Q. You testified, as I understand, that you talked to Mr. Erickson and Mr. Erickson gave you a figure; is [4445] that correct? A. Yes.

Q. Do you recall what figure he gave you?

A. If you will show me the exhibit, I will read them to you.

Q. First, will you state the figure that you used on the last Saturday in January, 1950, and then give the change that you wrote in this exhibit 259?

(Whereupon, there was a brief pause.)

The Witness: I wish I could have that question again. I was calculating.

The Court: Mr. Griffin, do you want to restate it?

Q. (By Mr. Griffin continuing): Will you first read the figure you used in January, the last Saturday in January, 1950, Mr. Taylor, and then the changed figure that you inserted in 259?

A. From the best of my recollection, there might have been a slight difference of some kind in this

(Testimony of L. Hicks Taylor.)

figure, but to calculate it now, the net profit would have shown \$101,304.24.

Q. What figure—what figures and what items did you change in 259; will you advise the Jury?

A. The application of an exact amount of [4446] change was \$51,578.76.

Q. In what account was that, the milk purchase account?

A. That was in the accounts payable account.

Q. In the accounts payable? A. Yes.

Q. Did you in anywise analyze that accounts payable? A. I did not.

Q. Did Mr. Erickson advise you what to change that account to on your books?

A. Accounts payable, yes.

Q. Without any—just a lump sum accounts payable, and no analysis or advice from Erickson, just \$51,578.76 accounts payable?

A. That is correct.

Q. You had no knowledge of what the accounts payable were and did not investigate?

A. I did not. That was Mr. Erickson's and Mr. Forster's responsibility.

Q. I think you said that Mr. Erickson also pointed out another error in your computation, is that correct? A. It is possible, yes.

Q. Is that a ten thousand dollar item? [4447]

A. It is possible that that was it.

Q. It was, wasn't it?

A. I do not remember just exactly.

Q. What was the item itself?

(Testimony of L. Hicks Taylor.)

A. If I remember rightly, it was an inventory item.

Q. An inventory item; what did you—now, do I understand that you changed your figures on Exhibit 259 accounts payable by 51,000 and some odd dollars? A. That is the exact change.

Q. Will you show that to me on here, please?

A. Here is the amount, right here (indicating).

Q. This is—do I understand that originally you had accounts payable \$156,649.85?

A. I believe that includes the '51. I am not sure.

Q. To the right of that column, you have entered, and this is your own handwriting, is it not?

A. Correct.

Q. \$51,578.76? A. Yes.

Q. And instead of surplus \$55,436.54, you have written to the left, or to the right, under the fifty-one thousand dollars, ten thousand dollars, is that correct?

A. No, that is not correct. The ten thousand dollars [4448] was written opposite the account milk drafts.

Q. Oh, over here. I see. The two figures themselves manifestly you have changed, there was some figure before the fifty-five thousand?

A. It is my recollection that there was, yes.

Q. What was it? A. That I don't know.

Q. But, opposite the fifty-five thousand, under milk drafts, and underneath the fifty-one thousand, you wrote in ten thousand dollars?

A. That was for my information, yes.

(Testimony of L. Hicks Taylor.)

Q. And where did you get the information in regard to that ten thousand dollars?

A. Mr. Erickson gave me those figures.

Q. He gave you ten thousand dollars?

A. Yes.

Q. And then, after taxes payable, originally eight hundred sixty-eight dollars and ninety-eight cents, you have written in \$19,703.—wait a minute. What has confused me, Mr. Taylor, some apply to this line and some to this one. This is all under the heading of Expenses, is it not, rather than taxes?

A. No, that is not. That is evidently in working out something I have accumulated some figures and wrote the amount there. I don't know what they comprise. [4449]

Q. And the amount is \$197,039.06?

A. Yes. It is meaningless as far as this statement is concerned.

Q. What was the original inventory upon this statement? A. \$12,978.90.

Q. You have written in—you have changed that figure, the figure "1" on the twelve thousand to a "2", is that correct? A. That is correct.

Q. And, in the column where you were making these changes, you wrote in \$32,978.90, is that right?

A. That is a figure written there, but it is not the inventory used.

Q. What inventory was used?

A. \$22,978.90.

Q. And you have another figure here, \$230,675.32 written in; what was that figure?

(Testimony of L. Hicks Taylor.)

A. From glancing at it, I would say that that was an accumulation of some of these figures into one for the tax return, or for some other purpose. It is meaningless so far as this statement was concerned.

Q. Mr. Taylor, the changes that you made of the Exhibit 259, considering how you handled it, actually made a reduction in income not of \$51,578.76, but of [4450] approximately seventy thousand dollars, didn't it?

A. No, that is not true.

Q. Well, bills payable was one item, \$51,578.76, isn't it? A. Correct.

Q. Inventory \$10,000? A. Increase.

Q. What does that do?

A. That reduces \$51,000 to \$41,000.

Q. Where did you bring it back?

A. Inventory was increased ten thousand dollars.

Q. Inventory increased ten thousand dollars; you say, reduces this item from fifty-one to forty-one? A. Yes.

Q. All right; what did you—what else did you do in the shifting of figures to change the amount of income, net?

A. Drafts payable were increased ten thousand to bring back this \$51,578.76.

Q. There couldn't be any—if there was a certain amount of drafts payable, there couldn't be ten thousand dollars more or less, could there?



(Testimony of L. Hicks Taylor.)

A. This exhibit displays that there was ten thousand more. [4451]

Q. Where did you get that information?

A. Mr. Erickson.

Q. All right; you talked to Mr. Erickson then about drafts payable, did you, on this occasion?

A. Talked about it?

Q. Yes.

A. He gave me an amount to add.

Q. He gave you an inventory figure, didn't he?

A. Correct.

Q. You increased that inventory figure by ten thousand dollars, didn't you?

A. I did not.

Q. I thought you said inventory was increased?

A. I increased it by the figure given me.

Q. When you first entered the inventory, you had no inventory figure?

A. Yes, I had an inventory figure.

Q. All right; what was it?

A. \$12,978.90.

Q. And you—then Mr. Erickson gave you a new figure? A. Correct.

Q. Was that on the telephone?

A. No, it was not on the telephone.

Q. When did he give you a new figure? [4452]

A. In March, 1950.

Q. In March, 1950? A. Yes.

Q. And when did he give you the figure fifty-one thousand something?

A. The very same day.

(Testimony of L. Hicks Taylor.)

Q. The same day?

A. The same time.

Q. And when did he give you a new figure on drafts payable?      A. That very same time.

Q. That very same time?      A. Yes.

Q. All three at the same time?

A. That is correct.

Q. And, as you have said, you checked none of those or analyzed none of them?

A. I did not.

Q. You knew absolutely nothing about them except as he gave them to you, is that right?

A. Because it was not part of my assignment.

Q. My question is:

You knew absolutely nothing about them except as he gave them to you?

A. Mr. Forster and Mr. Erickson I understand checked them out. [4453]

Mr. Griffin: May the question be read, if the Court please?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. (Continuing) I accepted them that way, yes.

Q. (By Mr. Griffin): Did you examine Mr. Erickson's sales analysis sheets——

A. (Interposing) I did not.

Q. (Continuing) ——on these items?

A. I did not.

Q. You knew that these changed figures that you were using affected income and income tax of

(Testimony of L. Hicks Taylor.)

the Issaquah Creamery Company for the year 1949, didn't you?

A. Yes, they affected it.

Q. And you knew that they affected it very materially by decreasing, at least, that tax, by fifty per cent?

A. That would be the approximate, yes.

Q. And notwithstanding that this was March, 1950, you didn't do a thing about it, as I understand your testimony, except to make the change on that sheet in March, 1950; is that right, and prepared the tax [4454] returns, Mr. Taylor, accordingly?

A. That is correct.

Q. And you called Mr. Forster down by telephone, you said, and told him the amount of check to bring in and to sign the return?

A. That I don't recollect exactly.

Q. You recall so testifying?

A. He came to my office to sign the tax return.

Q. Did you 'phone him the amount of the check to bring in and to sign the return?

A. Oh, it is possible that I did.

Q. And you explained to him at that time these changes that you had made?

A. That is correct.

Q. And told him that he and Erickson would have to be responsible for it?

A. Would have to substantiate the changes, yes.

Q. What do you mean by that, Mr. Taylor?

A. Well, I meant that I had changed my ledger,

(Testimony of L. Hicks Taylor.)

and it would probably be noticed by anyone examining it.

Q. And you knew that you would not be here to carry on the work at that time, didn't you?

A. That I did not know particularly.

Q. So, you did make the changes in your ledger, did you, Mr. Taylor? [4455]

A. As far as I remember, yes.

Mr. Griffin: May I see 271, please?

Mr. Brody: Here it is (indicating).

(Whereupon, exhibit was handed to Mr. Griffin by Mr. Brody.)

Q. (By Mr. Griffin): Now, Mr. Taylor, you testified twice this morning on my examination that on this fifty-one thousand dollar accounts payable, you didn't analyze it, and you didn't know anything about it except as a figure given you by Mr. Erickson; is that still correct? A. Yes.

Q. Then, why, Mr. Taylor, on your ledger, did you divide that fifty-one thousand dollars between certain items of accounts payable?

A. May I look at the ledger?

Q. Do you recall whether you did or not?

A. No.

Q. And, if you did, it was for the purpose of concealing it, wasn't it?

Mr. LeSourd: Object to the form of the question.

The Court: Objection sustained.

Q. (By Mr. Griffin continuing): Will you look at your ledger, [4456] 271, and read to the jury what you did on your ledger with these items of

(Testimony of L. Hicks Taylor.)

which you knew absolutely nothing except as given to you?

A. The ledger account of December 31 was posted \$98,616.29.

Q. To what account did you charge on your ledger and make the entry in your handwriting of this fifty-one thousand dollars?

A. I didn't make it as a separate entry.

Q. No, but you knew nothing about it, and what did you do? Tell the Jury what you did from your ledger with it.

A. What do you mean, what I did with my ledger with it?

Q. How did you enter the \$51,000 in your ledger?

A. It is entered in an accumulation of \$98,616.29.

Q. You entered a portion of it to butter purchases, didn't you?      A. Yes.

Q. You charged in your ledger that \$51,000 item as follows, did you not, sir:

You charged milk purchases, \$5,000?

A. So it appears, yes.

Q. In your own handwriting? [4457]

A. Sure.

Q. You charged butter purchases, \$41,578.76, didn't you?

A. There isn't anything that displays that here.

Q. What did you charge to butter?

A. I don't know. I can't tell.

Q. You can't tell from your ledger?



(Testimony of L. Hicks Taylor.)

A. I can't tell how it was distributed.

Q. And you charged ten thousand dollars of it to miscellaneous, didn't you?

A. That I cannot tell you. There are a number of items here that have been changed. Possibly some from some other source.

Q. You can't analyze your own ledger, is that the situation, sir?           A. The facts are here.

Q. All right; what were the facts in your—  
Mr. Griffin: Strike that.

Q. (By Mr. Griffin continuing): I think, Mr. Taylor, that you testified that you held the ledger open until Mr. Erickson could check back to see if there were any errors, is that correct?

A. I told Mr. Forster and Mr. Erickson that I would hold the ledger open until they checked out to see if there was any error. [4458]

Q. As a matter of fact, you didn't hold the ledger open because your ledger on its face shows that you recall the original figures that you had in the ledger, didn't you?

A. Yes, I so testified, that I changed the ledger to fit the charges.

Q. So that it wasn't held open; you had already made the entries, hadn't you, before you got the new figures?

A. No, I did not. I held the ledger open. The adjustments were made in March, 1950.

Q. Mr. Taylor, do I understand now, dealing with your ledger, Exhibit 271, for the month of December, 1949, you cannot find, tell, or analyze

(Testimony of L. Hicks Taylor.)

how you handled this fifty-one thousand some odd dollar item upon your ledger?

A. Not without some added work papers.

Q. What work papers did you have, or is there, other than Exhibit 259 in connection with this matter?

A. There were about six or seven cartons of work papers, and apparently they have been pulled apart to somebody's satisfaction.

Q. My question, Mr. Taylor, is:

What work papers did you make out in connection with the matter we are discussing other than Exhibit 259? [4459]

A. There would have been attached to this in the file—you see, this is perforated—there was probably a lot of papers with that in a jacket.

Q. Did you make out any work sheet, Mr. Taylor, showing these changes that you entered in the ledger?

A. I just—yes, I just testified that those contain all, but figured if I had the work sheet——

Q. (Interposing) As a matter of fact, you made the changes, Mr. Taylor, on Exhibit 259 in your own handwriting, didn't you?

A. For this particular purpose, Mr. Griffin, that is exactly what I did.

Q. Well, 259, and your ledger for the month of December—this is your work sheet, 259, with the changes on it in your own handwriting, isn't it?

A. Yes.

Q. All right, now——

(Testimony of L. Hicks Taylor.)

A. (Interposing) Mr. Griffin, I would like to finish this point.

Q. Certainly.

A. This book has a complete trial balance on it. The expense control. There is a work sheet that shows every item in there, and the adjustments made, if you will produce them from the files that I turned over.

Q. Handing you Exhibit 287, Mr. Taylor, I will ask [4460] you if that is the jacket from out of which came Exhibit 259?

A. That is correct.

Q. Now, will you take that jacket, Mr. Taylor, and advise the Jury what you did, to what accounts in your ledger you charged this item of, first, \$51,-578.76?

A. Mr. Griffin, this jacket is just like everything else you have presented me. It is partial in every respect. These things are never presented to me in their entirety. This is up to October, 1948, and many sheets have been taken out of this.

Q. There is nothing in the jacket, then, out of which this exhibit was taken?

A. That exhibit did come out of this jacket.

Q. I say, there is nothing in the jacket then, Exhibit 287, that in anywise helps you to determine what you did in the ledger with the fifty-one thousand?

A. No, apparently the only paper that you were interested in was this.

Q. Now, Mr. Taylor, while you cannot, you say,

(Testimony of L. Hicks Taylor.)

determine what you did with that fifty-one thousand on the ledger, does it occur to you that an accountant examining your work can determine what you did with it?

A. Mr. Griffin, I am going to answer that by "yes". [4461]

Q. All right.

A. (Continuing) My files were placed in shape that any accountant who has had more than a couple of years' experience could have picked up those work sheets and gone through these ledgers.

Q. Now, you have testified that of this item, you have charged to milk purchases, \$5,000, you were able to get that from your ledger and work sheet, were you?

A. I was assuming that that charge was there, yes, from the looks of the account.

Q. I will ask you if you did not change over this item to the butter account, \$41,578.76?

A. I cannot tell.

Q. And ten thousand dollars to "Miscellaneous"?

A. That I cannot tell.

Q. Would you say that you did not?

A. I don't know.

Mr. Griffin: Mr. Moriarty suggested a recess.

The Court: Ladies and Gentlemen of the Jury: We will take the mid-morning recess, and the Court calls you attention to the admonition given you on similar occasions and asks that you heed it on this occasion.

You may now be excused.

(Testimony of L. Hicks Taylor.)

(Whereupon, the Jury retired from the court room.) [4462]

(Whereupon, at 10:53 o'clock a.m. a recess was had in the within-entitled and numbered cause until 11:07 o'clock, a.m., April 22, 1954, at which time, counsel and defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: You may call the Jury.

(Whereupon, the Jury was returned to the court room.)

The Court: You may be seated.

It is stipulated that the Jury and all Defendants are present in the court room?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

The Court: You may proceed, Mr. Griffin.

Q. (By Mr. Griffin): Mr. Taylor, is Plaintiff's Exhibit 213 the journal of Mr. Erickson for the month of November, journal kept by Mr. Erickson, months of November and December, 1949, Issaquah Creamery Company, from which you made your entries into the ledger?

A. This looks like the same one, yes.

Q. You find an entry, do you, November, 1949, Consolidated Dairy, \$51,578.76?

A. Yes, it appears here.

Q. And does it appear again in December?  
ing for it.

Q. Well, isn't that the book that you made your

A. I haven't examined this book so I am look-



(Testimony of L. Hicks Taylor.)

entries from, month by month, when you went out to Issaquah?

A. Yes; yes, that is true, but the figures you were referring to were given to me in March.

Q. 1950? A. That is right.

Q. Would there be any purpose if he gave you a figure of \$51,000 for you to divide that up between certain accounts of which you knew nothing?

A. I didn't divide it up.

Q. I didn't ask you that. There wouldn't be any reason to, would there? A. No.

Q. The item was given to you as fifty-one thousand some odd dollars, milk purchases, accounts payable, is that right? A. Yes.

Q. And that is where it should go on your ledger, fifty-one thousand in the milk purchases, is that right?

Mr. LeSourd: Just a moment. Accounts payable.

Q. (By Mr. Griffin continuing): All right, accounts payable.

A. Yes, it was accounts payable.

Q. Accounts payable, or milk purchases, that is the way it was given to you, wasn't it?

A. I don't recollect just how it was described.

Q. Mr. Taylor, what—will you tell the Jury what, you personally, of your own knowledge and limited to that, called for complaint on your part against George Kachlein?

A. Mr. George Kachlein was employed by me in 1948 to assist me in a tax matter and performed for me in this tax controversy with the Internal

(Testimony of L. Hicks Taylor.)

Revenue and contacted Mr. Marx and Mr. McCarthy in October of 1949 and informed me that my case was hopeless and that I had committed a fraud and was an accountant and would not have very much defense and suggested that I could probably, by pleading guilty, get off for five to seven months.

March 2, 1950, he came to my house and took me to Tacoma and advised me that pleading guilty was best and less publicity, and I did plead guilty. On April—at his instigation—on April 25th I was sentenced to McNeil Island.

(Whereupon, the witness wept.)

The Court: Do you wish a recess, Mr. Taylor?

The Witness: No, that is not necessary. Just let me get back my composure.

A. (Continuing) Why, Mr. Kachlein served as my attorney, attempted in a lackadaisical way to try to file a protest on my tax liability, and sent that to the Island. I signed it and sent it back and it had no particular effect.

As I remember in June he prepared a codicil to my will and sent it to me.

As I remember in July he had me removed as the Trustee of the Forster Trust.

When,—in September, the 6th day of September Mr. Marx and Mr. Eppler and Mrs. Stokie came to the Island to see me on the Forster case and Mr. Eppler informed me that the accountants Touche, Niven, Bailey and Smart, that had been hired by Mr. Kachlein, had reported that there was approxi-

(Testimony of L. Hicks Taylor.)

mately one million dollars of unreported income.

Mr. Eppler asked me if I had a statement to make and I told him that I could not because I did not have legal counsel and he asked me who my legal counsel was, and I said, "Mr. Kachlein," and Mr. Eppler said, "Oh," as I remember it.

I immediately got up and left the room to [4466] their—I am afraid they were a little bit disturbed about it. I maybe was a little abrupt, but I was so perplexed and surprised at such a statement that I didn't know what to think.

I returned from the Island on September 10th. We, my wife met me and we had an appointment with Mr. Kachlein on the 13th, on Wednesday morning.

Tuesday before, I believe, Mr. Eppler and Mr. Marx tried to contact me at my office. I did not go to my office at the time. We went to Mr. Kachlein's office on the morning of the 13th. Mr. Kachlein was very strong in his statement that he did not want me to make a statement to the Internal Revenue Agents and to stay out of the way and to get out of town as soon as possible. My wife and I had definite plans for a short vacation, a thirty day trip, and in fact I even moved my car out of my garage so that the Agents would not know that I was home so that I would not be disturbed by them.

On the 14th, morning of the 14th, or afternoon, I won't say which for sure, I think it was afternoon, a Marshal's car drove in to my driveway. I knew then that I was quite sure that Mr. Marx

(Testimony of L. Hicks Taylor.)

and Mr. Eppler were making an effort to contact me. I went to the basement and I kept out of sight and I [4467] guess the door bell was not very loud because our lady that works with us was running the vacuum cleaner and apparently no one answered the door.

I had an appointment to go and talk to my sister who lives in another end of town and I went up the street and got my car and drove up there. Mr. Marx and Mr. Eppler, I believe, had just left when I left my sister's home—when I got there—by just a few minutes.

My wife and I stayed out of sight and we left very early the next morning and were gone until the 25th of October. All this time Mr. Kachlein was representing me as, I thought and definitely thought as my attorney. I contacted him and made an appointment with him on the, if my recollection is correct on the 27th day of October, 1950, at which time he informed me owing to the circumstances that it would be—he would be in the position that he would have to either release me from his representation, or release Mr. Forster. My release was granted that day. I employed Mr. LeSourd to represent me.

But, going back into this story a little further, one of the most important things that I think everybody should know, I had three men associated with me. [4468] I left them in charge of my office, distributed the business as best I could to the various ones. I left them a bank account to run. It had



(Testimony of L. Hicks Taylor.)

\$3800.00 in it to operate with. These men were under agreement to me to draw two-thirds of their compensation and leave one-third in the bank account to cover expenses and possibly a dollar or two for me. Those two men, or three men, apparently were satisfied with the agreement but some time in May two of them went down to Mr. Kachlein's office and wanted to know what to do with the fees collected in my little business. Mr. Kachlein said that I was out of business, completely out of business, and that I would never practice again, and that I had made a lot of trouble for a lot of people and gave them a——

Q. (By Mr. Griffin): Mr. Taylor, I asked you of your own knowledge. I haven't interrupted you. You were not there. I want to limit this question, and you can answer as you see fit, to what you know personally, not what somebody told you.

A. I apologize if I am out of order, Mr. Griffin.

The net result of this memorandum letter was that the accountants should take all the fees and settle with me on my return. These accountants paid [4469] the expenses of my office and telephone, tax services, and various other things out of my \$3800.00 and to this date I still have paid that bill. One of the men did eventually make a settlement of his account with me and that is the net result of the many things that happened that Mr. Kachlein mixed himself up in and put me out on a limb in many ways.

In another occasion that came up I had letters



(Testimony of L. Hicks Taylor.)

to the Island wanting to know what my brother was doing and I wrote back and told him to get in touch with Mr. Kachlein before he did anything, and then they ceased their operation.

Various things that were not very ethical in my observation of the situation.

Q. You consider yourself a pretty good judge of ethics, don't you, Mr. Taylor?

A. Yes, I think I do.

Q. Now, your first contact with Mr. Kachlein was in December, 1945, wasn't it?

A. Not relative to my own case.

Q. My question was: Your first contact with Mr. Kachlein was in December, 1946, when you called with reference to the formation of a family partnership matter?

A. I believe that I took him the account [4470] of the Pioneer Fruit Company at that time.

Q. The Pioneer Fruit Company; you were the accountant for that company, Mr. Taylor?

A. I was.

Q. And that company became involved with the tax authorities for the Federal Government, didn't it?

Mr. LeSourd: Objected to, your Honor, as completely irrelevant to the case.

The Court: Objection sustained.

Mr. Griffin: If the Court please, I am going, if I may, to the acquaintanceship of Mr. Kachlein, not limited to this matter but to two others only, and very briefly that they became involved and

(Testimony of L. Hicks Taylor.)

through that Mr. Kachlein learned how Mr. Taylor was operating. That is the purpose—as a background for the statement that Mr. Kachlein made, both in defense of Mr. Taylor and Mr. Forster said——

The Court: (Interposing) I might overrule the objection if it is limited to this one question.

Mr. Griffin: Thank you.

Q. (By Mr. Griffin continuing): They became involved in tax liability with the taxing authorities, Federal, [4471] didn't they?

Mr. LeSourd: Your Honor, may it be understood our objection continues to any testimony with regard to other concerns?

Mr. Moriarty: The Government joins in the objection to this line of testimony, that it is not proper cross examination.

The Court: I stated that the one question may be admissible. I will overrule the objection and if the matter continues Counsel may make objection if they feel it is objectionable.

You may proceed.

A. No, not involved. The question was——

Q. (By Mr. Griffin): Now, Mr. Taylor——

Mr. LeSourd: Let him explain.

Mr. Griffin: I have no objection but was just trying to comply with the Court's ruling. I have no objection at all.

The Court: You may proceed.

A. (Continuing) Not involved. It was a question

(Testimony of L. Hicks Taylor.)

of a family partnership relationship because one of the partners had been called into the Service.

Q. (By Mr. Griffin): That was the matter requiring eventually [4472] the services of Mr. Kachlein, wasn't it?

A. I took them to Mr. Kachlein, yes.

Q. And you continued to be the accountant?

A. Yes.

Q. Then you took Mr. Kachlein the matter of the business of a certain doctor here in Seattle who was also involved in a family partnership that you had organized, didn't you, Mr. Taylor?

Mr. LeSourd: Same objection.

Mr. Griffin: I will not mention the name unless necessary.

The Court: Objection overruled.

A. No, I did not frame that family partnership. I was merely their accountant.

Q. (By Mr. Griffin): And you referred that matter to Mr. Kachlein? A. I did.

Q. And that situation involved a period from around 1947 to 1952, controversy with the taxing authorities, Federal, didn't it?

A. Yes, and I believe Mr. Kachlein was paid for his services.

Q. There was another corporation involved, in dissolution, in that connection, wasn't there? [4473]

Mr. LeSourd: Same objection, your Honor.

Mr. Moriarty: The Government also objects, if your Honor please.

The Court: Objection overruled.

(Testimony of L. Hicks Taylor.)

A. I don't recollect.

Q. (By Mr. Griffin): Columbia Packing Company, Mr. Taylor; a partnership rather than a corporation, pardon me?

A. Well, Mr. Griffin, I took that account to Mr. Kachlein, yes, with my confidence in Mr. Kachlein.

Q. Certainly; so that prior to your contacting Mr. Kachlein in 1948 he had had association with you in these various matters, and your accounting practices, which involved matters with the Government and you were well acquainted with each other in that particular, is that correct?

A. I certainly agree to that, yes.

Q. And it was because you had confidence in the manner in which he handled these other matters that on or about July 30, 1948, you contacted him in your own matter of income tax evasion, didn't you?

A. Somewhere around that date, yes.

Q. You advised Mr. Kachlein at that time that the [4474] Agents had contacted you and you needed help, didn't you?

A. I didn't state that I needed help. I asked his advice.

Q. That is, you asked his advice as to whether you could file an amended return, didn't you?

A. I had prepared an amended return showing differences of what I owed, yes.

Q. You advised him that your bank accounts did not balance with your books, didn't you?

A. I don't believe we had any books.

(Testimony of L. Hicks Taylor.)

Q. You didn't have any books; you had what you called—you didn't have a ledger, did you?

A. No, I did not.

Q. You had what you called a journal, or book of entry, didn't you?

A. No, I had a time book.

Q. A time book; your accounting system for yourself was not at all complicated was it, Mr. Taylor?

A. Well, if I had of kept it up it wouldn't have been, I expect, but it would have taken a lot of time.

Q. So, you didn't keep it up, did you?

A. I am afraid I didn't. [4475]

Q. And you advised Mr. Kachlein that you just guessed as to the amount of your income, didn't you?

A. Well, to some extent that is probably true.

Q. You advised him that the bad situation was this, did you not:

That you had deposit slips for your actual deposits in the bank of income received?

A. That is true.

Q. And that you had checked the matter, upon this call, and you were about fifty thousand dollars short in paying income tax, didn't you, of your own?

A. When you say fifty thousand dollars, are you referring—in how many years?

Q. In,—in the years of your eventual Indictment period.

A. 1942 through 1948, it is possible that my in-



(Testimony of L. Hicks Taylor.)

come was fifty thousand unreported, I do not remember.

Q. I didn't say income unreported, Mr. Taylor.

A. That is what I said.

Q. I said income tax unpaid.

A. No, that is not true.

Q. You advised him that as you checked [4476] this matter after the call from the Revenue Agents that you found you had been returning, or withholding, about forty per cent of your income from your tax returns for each year, didn't you?

A. No, I made no such statement.

Q. Anyway, Mr. Kachlein conferred with the Agents investigating to see if it would be all right for you to file an amended return and make an honest report, didn't he?

A. That is what he said he was doing. I don't know if he did or not.

Q. And he advised you that the Agents said they were going to proceed with their investigation no matter what you did?

A. Mr. McCarthy and Mr. Marx came to my home where I had taken my records and they expressed their desire to make their own investigation. It was nothing. Mr. Kachlein was there was all.

Q. Now, one reason that you employed Mr. Kachlein was because you had faith in his integrity and admiration for his ability, wasn't it?

A. That was true.

Q. And because you knew from experience the

(Testimony of L. Hicks Taylor.)

standing that he had with the Internal Revenue Service personnel? [4477]

A. I just assumed that he had a standing with the Department but nevertheless in handling the two or three protests that he filed I felt that he did a very satisfactory job.

Q. Now, Mr. Kachlein sat with you through the period that the Agents were investigating your returns, didn't he?

A. He was representing me at that time, yes.

Q. And then you were advised, or the Agents advised you, rather, and Mr. Kachlein that you owed additional taxes of \$34,865.55, and penalties in the amount of eighteen thousand dollars, with a fifty percent—that would be interest—and a fifty per cent fraud penalty, didn't they?

Mr. Moriarty: Objected to as not proper cross examination.

The Court: I am inclined to sustain the objection as to the particular question.

Q. (By Mr. Griffin): You were advised by the Agents, you and Mr. Kachlein, that they were—that the Government was claiming a substantial sum of money due from you unpaid for income taxes and they deemed it fraudulent?

Mr. Moriarty: Same objection. [4478]

The Court: Objection overruled.

A. Yes, there was a substantial sum but that was not the final settlement sum.

Q. (By Mr. Griffin): Yes; I understand that. Now, as a matter of fact, you have testified time

(Testimony of L. Hicks Taylor.)

after time, Mr. Taylor, as I recall, that the figures shown in the income tax returns of all the Forster interests represented precisely the figures in your ledger kept by you?      A. Yes.

Q. And as a matter of fact, Mr. Taylor, the figures in your personal income tax return represented the figures that you had in this journal, or time book, that you kept, didn't they?

A. No, they did not.

Q. Didn't you take the figures from your journal or time book to your income tax returns?

A. Possibly sometimes. I don't think they all agreed.

Q. You never reconciled your bank accounts with your journal, did you?

Mr. Moriarty: Objected to as not proper cross examination. He is referring to matters that are completely outside the issue here. [4479]

The Court: I will sustain the objection.

Q. (By Mr. Griffin continuing): Mr. Kachlein advised you, did he not, that you were pretty sloppy in your own bookkeeping?

A. No, he never did.

Q. And that you were very, very careless in your own bookkeeping?      A. No, he did not.

Q. Were you?

Mr. Moriarty: Objected to as not proper cross examination.

The Court: Objection sustained.

Q. (By Mr. Griffin): He advised you to plead guilty, you say?      A. He certainly did.

(Testimony of L. Hicks Taylor.)

Q. He advised you there wasn't any defense to what you had done?

A. He stated that he thought because I was an accountant, without very much of an analysis of my case that he advised me to plead guilty on one count.

Q. You were guilty, weren't you?

A. Mr. Griffin, I never in my life tried to cheat anybody at any time; it was just a careless situation that developed. [4480]

Q. Careless, you say?

A. Careless is right.

Q. Careless in returning—in underestimating your income to the Government, is that right?

Mr. Moriarty: Objected to as not proper cross examination.

The Court: Objection overruled.

A. I had many transactions that I was in that required many types of entries and bank accounts and it was not out of line that I should get mixed up in my figures. I believe that the Agents testified that I had thirteen bank accounts that were affected—that affected my income.

Q. You had thirteen bank accounts?

A. I believe that is what they said. I have forgotten exactly what they were.

Q. You know that Mr. Kachlein, in conference with the Revenue Agents and the Assistant United States District Attorney, worked out a plan for you by which, if you would plead guilty to one count,

(Testimony of L. Hicks Taylor.)

they would ask the Court to dismiss the other counts?

A. That was the understanding when I pleaded guilty, yes.

Q. And on March 2, 1950, you went to Tacoma with Mr. Kachlein and entered your plea of [4481] guilty, did you?

A. That is correct.

Q. And you met with the probation officer at that time?

Mr. Moriarty: Objected to as not proper cross examination.

The Court: Objection overruled.

A. Followed the regular procedure of sentence with the probation officer, yes.

Q. Now, prior to your going to Tacoma to enter your plea, Mr. Kachlein had prepared for you and submitted to the Internal Revenue Agents, Mr. Patten in charge, a statement of your position in the matter of the charges then being made, didn't he?

A. I don't know that I know what he filed.

Q. You told Mr. Kachlein that you had the financial burdens of your clients on your shoulders to such an extent that you neglected your own business, didn't you?

A. That is a very true statement. I had a large business and worked many hours every day.

Q. Mr. Taylor, did you or did you not read the memorandum which was supplied the Government in your behalf in your defense by Mr. Kachlein?

A. I do not remember of seeing it. I probably



(Testimony of L. Hicks Taylor.)

[4482] did but I don't recollect the contents. Let's put it that way.

Q. Now, at the time your investigation first began inquiries were made by the Agents at Issaquah seeking data, books and records, upon you, weren't they?

A. The Agents circularized all my accounts and obtained the income that they had paid me, if that will clear it.

Q. Mr. Forster asked you what the Agents were doing in calling Mr. Erickson for information, didn't he?      A. That I do not remember.

Q. When this investigation of your personal tax began, Mr. Taylor, and the Agents requested information from Issaquah Creamery, or the Forster interests, you have no recollection of talking to Mr. Forster about it at all?

A. You didn't ask me that, but I believe that Mr. Forster—this was in, sometime in 1949 that this circularization started.

Q. Yes.

A. And I think that Mr. Forster asked me and I said, "It is a routine thing. I don't know what the results will be, so that you must comply with [4483] their request."

Q. You told him you weren't worried about it, didn't you?

A. I don't remember whether I told him that or not. It would naturally be the thing to say, wouldn't it, if I did?

(Testimony of L. Hicks Taylor.)

Q. And he asked you if there was anything wrong with his books, didn't he?

A. That is right.

Q. What did you tell him?

A. I told him I knew of nothing wrong with his books.

Q. And then with reference—you had no further conversation, or any questions asked by Mr. Forster, were there, in regard to your own income tax matter until after the newspapers published the matter of your plea of guilty in Tacoma on March 2, 1950?

A. That is right.

Q. Then next when did you see Mr. Forster?

A. Probably at the end of that month.

Q. Not until the end of March?

A. Possibly. Maybe we went to Finstad and Utgard before that. I am not sure.

Q. And you went to Finstad and Utgard in [4484] January, did you not, 1950?

A. Yes, but this was March.

Q. I understand and in February, 1950?

A. Yes, so far as I remember.

Q. Now, was there any conversation on those two occasions, January or February, when you went to Finstad and Utgard with Mr. Forster?

A. I do not remember.

Q. Now, you did go to Finstad and Utgard with Mr. Forster sometime in March and after you had entered your plea of guilty, didn't you?

A. Yes.

Q. Did I understand you to say that some con-

(Testimony of L. Hicks Taylor.)

troverſy aroſe between you and Mr. Forſter on that occaſion?        A. I don't remember of it.

Q. You uſed the term, I think, "had words." I waſn't ſure whether you meant an argument or you were juſt talking about converſation.

A. I don't remember of any words.

Q. All right; you did diſcuſs, however, on that occaſion the fact that you had pled guilty and doubtleſs would not be able to continue the work that you had been doing for the Forſter enterpriſes, didn't you? [4485]

A. Yes, I think we diſcuſſed whether we would put one of the boys in the office on the job or not.

Q. And the matter for determination was left by Mr. Forſter to you, waſn't it?

A. Mr. Forſter ſaid that Erick could take care of it.

Q. What did you ſay?

A. I ſaid, "All right, it is O.K. by me."

Q. You thought he could, didn't you?

A. Yes.

Q. You thought he was capable?        A. Yes.

Q. And honeſt?        A. As far as I know.

Q. And the matter was left juſt that way, waſ it?

A. Well, we proceeded to turn the ledger over to Mr. Erickſon on each of the jobs.

Q. Your laſt trip to Finſtad and Utgard waſ in April, waſ it not?

A. April 21ſt, yes.

Q. April 21ſt; your purpoſe waſ to go up for— did you take the ledger up with you?

(Testimony of L. Hicks Taylor.)

A. The ledger and Mr. Erickson went along.

Q. That was the first time Mr. Erickson [4486] had gone along, was it?

A. He had gone along to the other places.

Q. I mean to Finstad and Utgard?

A. Yes, that is right.

Q. And you took the Finstad and Utgard ledger with you, did you?      A. Yes.

Q. From your office?      A. Yes.

Q. And you came back; and when you say that you went, you and Mr. Forster and Mr. Erickson were in the automobile together with Mr. Forster driving; is that right?

A. That is right.

Q. Did you give Mr. Erickson any instructions what to do?

A. He watched me do the work and followed through on it. I gave him whatever was necessary, I thought, to continue with the ledger.

Q. And what did you do with the ledger when you came back to Seattle?

A. As far as I know he took it on to Issaquah, as I remember.

Q. That would be April 21, 1950?

A. That is right. [4487]

Q. That was the first time that Finstad and Utgard ledger had been at Issaquah, as far as you know, wasn't it?

A. I believe that is correct, yes.

Q. Now, following March 2nd when you entered your plea of guilty down through March, down to

(Testimony of L. Hicks Taylor.)

the end of March, near the end, there had been no intimation of any kind, so far as you know, about any tax investigation of Mr. Forster or his interests, were there?

A. None that I had heard of.

Q. Who introduced Mr. Forster to Mr. Kachlein?

A. It is possible that Mr. Forster went with me to Mr. Kachlein's office and met him there.

Q. I am not talking about possibilities. You took Mr. Forster to Mr. Kachlein, didn't you, Mr. Taylor?

A. It is possible.

Q. Well, did you?

A. I believe I introduced Mr. Forster to Mr. Kachlein, yes.

Q. When was that, Mr. Taylor?

A. If my recollection is right it was sometime in September, 1949? [4488]

Q. In connection with what matter was it, Mr. Taylor?

A. With Finstad and Utgard.

Q. Well, I will ask you if that was not, and the first time that that matter arose was not, the latter part of March, 1950?

A. My recollection is that I delivered the minute book to Mr. Kachlein in September, 1949. That is my recollection of it.

Q. I am not asking you about the delivery of the minute book. I am asking you whether the first time that you introduced Mr. Forster to Mr. Kachlein was not on March 30, 1950?

A. That is not so.



(Testimony of L. Hicks Taylor.)

Q. Can you state anything in your——

A. (Interposing) I remember things that clear my mind as to when Mr. Forster—Mr. Forster informed me that Mr. Strack had taken his application in to the Rainier Club and that Mr. Kachlein was going to assist him in having his application accepted.

Q. All right; when was that?

A. That was in January or February, 1950.

Q. January or February, 1950, Mr. Kachlein, did you know, was upon the membership committee of the Rainier Club at that time? [4489]

A. That I wasn't sure of. I knew he was a member because I had met him over there.

Q. Now, was that the only thing that you have to fix a date prior to March 30, 1950, of your introduction?

A. Except that I delivered the minute book of Finstad and Utgard to Mr. Kachlein and I know it was after they met, in September.

Q. And you delivered the minute book after they met? A. That was in September.

Q. You delivered the minute book after they met because the Finstad and Utgard matter was under discussion?

A. Mr. Forster thought, from my recommendations, that Mr. Kachlein would make a good attorney and he thought that account would be one that he could turn over to Mr. Kachlein, and that was the reason.

Q. But the matter at issue in the Finstad and

(Testimony of L. Hicks Taylor.)

Utgard matter was the obtaining of the stock from out of escrow, the contracts having been fulfilled, wasn't it?

A. There was no issue at stake in any way when that minute book was delivered to Mr. Kachlein.

Q. Mr. Kachlein's first employment was to [4490] close up the Finstad and Utgard transaction by getting the stock out of escrow and to Mr. Forster?

A. That may have been Mr. Forster's. I did not take part in that in any way.

Q. That was the purpose of that meeting that you——

A. (Interposing) No, it was not.

Q. (Continuing) ——that you introduced Mr. Forster to Mr. Kachlein?

Well, why did you deliver to Mr. Kachlein the minute book of Finstad and Utgard?

A. Just because Mr. Forster wanted to hire Mr. Kachlein on one of his accounts.

Q. Just on one of his accounts?

A. That is right.

Q. All right; now, did you keep any notes, records, diary, or memorandum with reference to any of Mr. Forster's matters?

A. It is possible.

Q. All right; do you have one upon the time that you introduced him to George Kachlein?

A. No, I am quoting from remembrance only.

Mr. Moriarty: If your Honor please, I think there should be some limit on this cross examina-

(Testimony of L. Hicks Taylor.)

tion. It is an entirely collateral matter. [4491]

The Court: Well, there should be some limitation. I don't know if we have reached it yet.

Q. (By Mr. Griffin): Now, Mr. Taylor, having entered your plea of guilty and before your sentence even, the matter of your civil liability came up between you and the Agents and with Mr. Kachlein, did it not?

Mr. Moriarty: Objected to as not proper cross examination.

The Court: Objection overruled.

A. That is the natural process of all of these cases.

Q. (By Mr. Griffin): And that occurred?

A. Yes.

Q. And that is the matter that Mr. Kachlein filed the protest, or appeal—whatever you may call them—on the civil side for you?

A. He filed the protest, yes.

Q. And to do that he had to have what is called in the Department a special power of attorney for that purpose? A. That he had.

Q. So that he had that special power of attorney from you to represent you in the matter of [4492] your income taxes due and unpaid?

A. He had that.

Q. You and your wife's?

A. He had that power of attorney until October 27, 1950.

Q. Yes, sir; and on April 4th, on or about April 4, 1950, you received a notice from the State Board

(Testimony of L. Hicks Taylor.)

of Accountancy that your license had been suspended by the State of Washington, didn't you?

A. Mr. Kachlein may have received it; I didn't.

Q. Well, that is a fact, isn't it?

A. That I don't remember.

Q. You don't remember?

A. It would be the natural process, so that we might as well say it happened.

Q. Well, you were suspended, were you not?

A. I agreed to be suspended with the Board.

Q. And Mr. Kachlein worked out with the Board an understanding in your behalf, did he not?

A. I don't know what Mr.——

Q. Now just a moment until I complete the question to see if you do.

An understanding, did he not, that the Board would take no action for disbarment while you [4493] were incarcerated in the Penitentiary but would give you a hearing where you could appear personally after you got out?

You know that, don't you?

A. Mr. Kachlein may have done that, but in 1950 I received my license again and paid for it and appeared before the Board and asked them what their decision was and they felt that I should surrender that until further application and I surrender my license to the Board in 1950, after I returned from the Island.

Q. But I am dealing with Mr. Kachlein.

A. I didn't say he didn't do something; he probably did.

(Testimony of L. Hicks Taylor.)

Q. Now, in the meantime, or at about the same time, your brother Jack Taylor suggested or wanted to begin the circulation of a petition to help you from disbarment, didn't he?

Mr. Moriarty: Objected to as irrelevant; not proper cross examination.

The Court: Is this covered?

Mr. Griffin: That is the very thing they went into.

Mr. LeSourd: I tried to and your Honor excluded the letters until later on. [4494]

The Court: I will sustain objection at this time.

Mr. Griffin: Sir?

The Court: This matter may be gone into on further direct examination?

Mr. LeSourd: It is going to be gone into, yes, sir, and I have no objection to Counsel's asking this witness about it.

The Court: You have no objection?

Mr. LeSourd: No, I have no objection.

The Court: All right, you may proceed. The Court will overrule the Government's objection.

Q. (By Mr. Griffin continuing): Do you have the question in mind, Mr. Taylor?

A. Yes.

The Court: Do you have it in mind?

The Witness: Yes.

Q. (By Mr. Griffin): Your brother was preparing to, or commenced, I don't know which, the circulation of a petition to—the effect of which would be to try to keep you your license, wasn't it?

A. Yes.



(Testimony of L. Hicks Taylor.)

Q. Mr. Kachlein objected to that, didn't he, [4495] the circulation of that petition?

A. Mr. Kachlein, yes, he requested——

Q. He felt that that would be in violation with the agreement he had made with the Department for you that no action would be taken so that you could have a hearing and testify personally when you got out?

Mr. LeSourd: I will object to asking the witness to state Mr. Kachlein's feeling.

Q. (By Mr. Griffin): That is what Mr. Kachlein advised you, wasn't it?           A. No, he did not.

Q. Did he tell you why he did not want that petition?           A. I was informed——

Q. (Interposing): By Mr. Kachlein? I am not asking about what you were informed by anybody else.

What did Mr. Kachlein inform you in that particular?

A. I heard from Mr. Kachlein—from the 24th of April until the 13th of September, except for papers sent over and in a very simple matter, I never had words with Mr. Kachlein. [4496]

Q. Now, again, the date of your sentence was April 25, 1950, wasn't it?

A. Right on the minute.

Q. Before sentence on that date and on April 18th Mr. Kachlein conferred with you for approximately one hour over what statement should be made to the Court in seeking leniency and assisting

(Testimony of L. Hicks Taylor.)

or advising the Court in the matter of sentence or argument against it, did he not?

A. I do not have too clear a recollection of it but I presume it happened.

Q. And I think you said that Mr. Kachlein prepared a will for you before you went over?

A. That was before I went away, yes.

Q. And a codicil after you were over there?

A. Yes.

Q. And the day preceding the sentence Mr. Kachlein conferred with you again, did he not?

A. Yes. I think he told me to be ready in the morning and to have ten dollars in my pocket the next morning to go to Tacoma.

Q. He advised you that upon the entry of your plea you would not be coming back to Seattle but would go directly to McNeil?

A. He didn't so advise me. [4497]

Q. What was the \$10.00 for?

A. You usually like to have that when you are over there.

Q. As of April 25, 1950, the date of your sentence, up to that time had any Government Agents to your knowledge made any call upon Mr. Forster?

A. Mr. Forster had a note, or on a card, written on the 21st of April that Mr. Marx had called him and wanted a financial statement.

Q. On April 21st? A. That is right.

Q. That is the day you went to Conway, isn't it?

A. That is correct.

Q. Well, then, you did discuss, did you not, with

(Testimony of L. Hicks Taylor.)

Mr. Forster the matter of his books and records on that Conway trip?      A. Yes.

Q. And Mr. Forster again asked you if his records were in order, didn't he?

A. And I said they were and that he had to make a financial statement and I suggested two or three accountants, among them Mr. Alkire, and to take the statement that I had prepared for the book for some time in April and to give this with his [4498] personal assets and submit this statement to Mr. Marx.

Q. And on this trip to Tacoma with Mr. Kachlein you discussed with him the fact of the then pending Forster investigation, didn't you?

A. In what way?

Q. I asked you if you discussed it with him?

A. I have no distinct recollection of the discussion.

Q. You discussed with Mr. Kachlein the advisability of employing accountants for Mr. Forster, didn't you, on that trip?

A. On our way to Tacoma?

Q. Yes.

A. The day I was sentenced I mentioned the same thing to Mr. Kachlein—to take the financial statement that I had prepared for the Peoples Bank and to get Mr. Forster's personal assets included with that and submit it to Mr. Marx. I also suggested to Mr. Kachlein that I thought Mr. Marx might wait, and wait until I came out as he had practically guaranteed I would get five to seven

(Testimony of L. Hicks Taylor.)

months, and he informed me that Mr. Marx would not work with me.

Q. You had no objection to working with Mr. [4499] Marx, did you? A. I had none, no.

Q. On this trip to Conway, April 21, 1950, you advised Mr. Forster that you were carrying a gun and were going to get Mr. Marx, didn't you?

A. That is an absolute false statement.

Q. This is the trip in which both Mr. Erickson and——

A. (Interposing) And I am saying that is an absolute false statement.

Q. You and Mr. Marx were friendly, were you?

A. We were never enemies in any way.

Q. Now, on this trip to Tacoma with Mr. Kachlein, Mr. Kachlein suggested, did he not, that he thought it would be necessary to get an accountant for Mr. Forster, as I understand you say, because he said Marx wouldn't wait and wouldn't work with you? A. That is correct.

Q. And who made the recommendation as to names of accountants?

A. I did some recommending. I recommended Mr. Alkire, the principal reason being that he had been with the Department and would be familiar with what Mr. Marx wanted and I thought that would [4500] be a good place and we talked over others. I don't remember who.

Q. Do you remember you talked over Haskin and Sells, and Price Waterhouse?

A. It is possible.

(Testimony of L. Hicks Taylor.)

Q. Mr. Alkire was a member of the firm of Touche, Niven, Bailey and Smart, was he not?

A. That is right.

Q. And that is the firm that was employed?

A. Mr. Kachlein I believe hired them.

Q. Yes, sir; on this trip to Tacoma you told Mr. Kachlein you had taken all the books and records, all the working papers, of the various Forster enterprises and left them out at Issaquah, didn't you?

A. Yes.

Q. You told him that some of the minute books might still be in Mr. Jones' office, or Mr. Grill's office?

A. I do not recollect that.

Q. On what date did you take these books and records out to Issaquah?

A. To the best of my recollection all the books and records and files were taken, with the exception of Finstad and Utgard current books, on the [4501] 11th of April, if I remember correctly.

Q. Have you any way—any data or anything to refresh your recollection as to when you took them out?

A. No, nothing definite.

Q. And you took them out because you knew that you wouldn't be able to carry on your—the work you had been doing, didn't you?

A. Not necessarily. There was no intimation but what I would continue on when I returned.

Q. Well, I am speaking of while you were away, sir.

A. That is right, and I placed them there in such a shape that anyone with any degree of knowl-



(Testimony of L. Hicks Taylor.)

edge could have gone into those files and taken them out and followed them through very nicely.

Q. And you placed them there so that anyone could have access to them to obtain necessary information, including the Revenue Agents, didn't you?

A. I informed Mr. Forster that I thought it would be very wise to get in touch with me before anybody went through them, but they were in shape.

Q. Why would it be wise, why did you inform him it would be wise, to get in touch with you before anybody went through them? [4502]

A. Because I could outline to him what would apply to each particular enterprise there.

Q. You left the books and records there, however, and one of your reasons was so that the Revenue Agents would have access to them.

A. That was possibly part of it and part of it that Mr. Forster did not want his files where somebody else could be pawing through them and in a discussion we thought it was smart to move them all down there.

Q. So you had a discussion with Mr. Forster as to moving them?

A. Sure I did, I discussed with him.

Q. When did you do that?

A. Well, it could have been two or three times.

Q. When was it, if ever?

A. Between the first day of January and the 25th day of April. It could have been four or five times in that period.

(Testimony of L. Hicks Taylor.)

Mr. Griffin: It is recess time, if the Court please.

The Court: Ladies and Gentlemen of the Jury:

We will now take the mid-day recess. The [4503] Court calls your attention to the admonition given you on similar occasions and asks that you heed it on this occasion.

You may now be excused until 1:45.

(Whereupon, the Jury retired from the court room.)

(Whereupon, at 12:16 o'clock, p.m., April 22, 1954, a recess was had until 1.45 o'clock p.m., at which time, Counsel and Defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: You may call the Jury.

(Whereupon, the Jury was returned to the court room.)

The Court: You may be seated.

It is stipulated that the Jury and all Defendants are present in the court room?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

The Court: You may proceed, Mr. Griffin.

Q. (By Mr. Griffin): Mr. Taylor, on April 25, 1950, at the time that you were sentenced in Tacoma you made a statement to the Court in open court, didn't you? [4504]

A. That is my recollection that I did, yes.

Q. You said this, did you not:

"I was too much interested in clients' affairs to really think of my own welfare."

(Testimony of L. Hicks Taylor.)

A. I believe that is true.

Q. And that was true, wasn't it? A. Yes.

Q. And among those clients were Mr. Forster and his interests, weren't there? A. Yes.

Q. And you said:

"I was very negligent in keeping my own records."

That was true, wasn't it? A. Yes.

Q. Now, you stated, I believe, that Mr. Kachlein, while you were at McNeil Island, prepared a protest or appeal to the Internal Revenue Service, proper department, I think you said in a lackadaisical manner. Is that the term you used?

A. It was not a very complete protest, no.

Q. It was what is known in the practice as a skeleton protest, was it not?

A. Well, extremely so, yes.

Q. You were, of course, not in Seattle? [4505]

A. No.

Q. And you couldn't prepare it and you didn't have access to your own records to prepare it, did you? A. No.

Q. You didn't have any of your own records upon which Mr. Kachlein could rely in preparing it, did you?

A. I had prepared a proposed amended tax return for all the years involved and they were available.

Q. Yes, but I said from your own records.

A. I am speaking of my own records. They were prepared from my own records.

(Testimony of L. Hicks Taylor.)

Q. And eliminating these amended tax returns that you wanted to file, but from the records that you kept, Mr. Kachlein had nothing upon which he could rely, did he?

A. The amended tax returns were taken from records that I had assembled after this started and they were very much in line with my final settlement that I made when I returned.

Q. I said, eliminating these amended tax returns which were not filed and prepared by you, Mr. Kachlein—you had no records, original [4506] records, upon which Mr. Kachlein could rely in making a formal protest, did you?

A. I had complete work sheets for the various years showing my income which we used in the final settlement in what I am trying to tell you; that those were prepared at that time.

Q. Mr. Kachlein arranged with the Internal Revenue Department, as you knew, to file a skeleton return to protect the record until you could be out and confer with him and go over these records, didn't he?

A. Yes, I will give him credit for that, yes.

Q. So that when you referred to the kind of return that was filed, it was a return filed with your knowledge that the arrangements made with the Department were for your protection until you could get out, wasn't it?

A. I do not believe in this type of a case that it is necessary to file a protest when you are serving time. A protest can be filed after you return.

(Testimony of L. Hicks Taylor.)

Q. I understand then that you did not think it was necessary to file a protest?

A. I don't believe it is obligatory.

Q. Then in—when did you return to Seattle from McNeil Island? [4507]

A. On the 10th day of September, 1950.

Q. You had planned upon returning or being released, rather, to take a vacation, a short vacation, hadn't you?

A. That was the plan we contemplated, yes.

Q. You and Mrs. Taylor? A. Yes.

Q. Now, you were interviewed, as I understand, by Mr. Eppler and also Mr. Marx, just prior to your release? A. On September 6, yes.

Q. September 6th; there was no intimation at that time by either Mr. Marx or Mr. Eppler that you were personally involved in Mr. Forster's income tax matter, was there?

A. To the best of my recollection they didn't make any threats, of any kind that I was involved.

Q. I am not speaking of threats. There was no suggestion that you were involved, was there?

A. I really do not remember that they made any statement of that kind.

Q. Now, at the time that you left Tacoma for McNeil Island there had been no audit started of the books of the Forster enterprises, had there?

A. Not that I know of. [4508]

Q. During the time that you were at McNeil Island this firm that you recommended audited at



(Testimony of L. Hicks Taylor.)

least in part these books and records of the Forster enterprises, didn't they?

A. Well, the statements will show in the record here that they did.

Q. And they wrote you a letter to be received by you upon your release suggesting that you come in and confer with them as to their report, didn't they?

A. They as a firm wrote to me but Mr. Forster had no connection with that letter.

Q. You ignored their request, didn't you?

A. I ignored it on the strength of Mr. Kachlein's telling me not to confer with the Revenue Agents.

Q. Touche, Niven firm were not Revenue Agents, were they?

A. No, and I wasn't working and had no connection with Touche, Niven.

Q. So it was just at about the time that you were released from McNeil Island that the preliminary audit of this firm was ready for delivery to whoever was entitled thereto, was it?

A. I don't know. [4509]

Q. You contacted Mr. Kachlein after your release on Wednesday, September 13th, did you not, in 1950?      A. Yes.

Q. You were then planning to go on your vacation that you had planned on?

A. Yes, we were urged very much to get away.

Q. Mr. Kachlein told you that he thought in the frame of mind that you were in and what you had

(Testimony of L. Hicks Taylor.)

gone through it would be advisable for you to take that vacation and rest, didn't he?

A. And urged me to get out of town as quickly as possible.

Q. Urged——

Mr. LeSourd: Let him answer.

A. (Continuing) Urged me to get out of town as quick as possible.

Q. (By Mr. Griffin): He said to you to get out of town as quickly as possible?

A. That is right.

Q. He told you that when you got back he would want to go into the matter with you in some detail, didn't he? [4510]

A. No, I have no remembrance of it.

Q. He told you that undoubtedly your assistance would be required in the necessary explanations of your method of handling the Forster affairs, didn't he?

A. He made no such statement to me.

Q. That in the situation as disclosed by the investigation Mr. Forster was in serious tax trouble; he told you that, didn't he?

A. He did not.

Q. And he told you that Mr. Forster would need your help?

A. He did not.

Q. And you said to him, "Well," in substance, "then he will have to pay well for it"?

A. That is an absolute falsehood.

Q. All right; you went upon your vacation, didn't you?

A. Yes, we did.

Q. And you returned in October?

A. That is correct.

(Testimony of L. Hicks Taylor.)

Q. Now, when you returned in October you had a conference, or, rather, Mr. Kachlein called you into his office, didn't he?

A. I believe I 'phoned him first. [4511]

Q. Anyway, you had a conference on October 27th?           A. Yes.

Q. The conference actually in which Mr. Le-Sourd later was joined occupied about three hours, didn't it?

A. I would say an hour and a half at the most.

Q. As of the date of that conference there had been no statement made to you by anyone that you personally were involved in the fraud claim of the Government so far as Mr. Forster's enterprises were concerned?

A. My first definite knowledge that I was involved in it, that was the, I believe the 14th day of March, 1951.

Q. Fourteenth day of March, 1951, and we are now dealing with October 27, 1950, is that correct, this conference?

A. What now; what is that?

Q. We are talking now about October 27th.

A. There was no discussion of my involvement in it at that time.

Q. But there was a discussion, and an extended discussion, of the Hans Forster situation?

A. There was not. [4512]

Q. Of the books and of the records?

A. There was not.

Q. And in which Mr. Kachlein told you, in sub-

(Testimony of L. Hicks Taylor.)

stance, what the accountants had found in going over your records and what you say are your work sheets?

A. He did not; he never mentioned the Forster case at that meeting.

Q. That was the meeting, Mr. Taylor, was it not, in which eventually I reach the point where you were advised he was going to have to decide as between two clients and get out——

A. It didn't take him long to decide that. We discussed my affairs only at that meeting. Mr. Forster's affairs were not discussed at that meeting.

Q. Mr. Kachlein also discussed with you as to why you had not recorded on the books the funds that Mr. Forster was using out of account 198, didn't he?

A. Mr. Kachlein never mentioned the Forster affairs in one word or a dozen during that conference.

Q. He advised you——

A. He did not.

Q. ——at that conference that the accountants had [4513] found the situation existing testified to here in the year-end statement, December 31, 1949, didn't he?

A. That is an absolute falsehood.

Q. Nothing was discussed about Mr. Forster?

A. Absolutely not, not one word. My affairs were the only ones discussed at that conference, my own personal income tax returns were discussed and we hired another attorney.

Q. Why was there any need for a decision on that particular time then in the employment of Mr.



(Testimony of L. Hicks Taylor.)

LeSourd if the affairs of Hans Forster were not discussed with you?

A. The affairs of Hans Forster were kept a secret from me continuously until I was—I received a letter from the Internal Revenue Department sometime early in 1950—late 1950 or early 1951.

Q. My question is: What occurred at that meeting to require Mr. Kachlein to make a decision as to representing you or Mr. Forster if Mr. Forster's affairs were not discussed at that meeting?

A. There was discussed: He withdrew from me, we picked our attorney, and had a conference with the attorney, and that ended my discussion with Mr. Kachlein on my own affairs, not the affairs of Mr. Forster. [4514]

Q. Mr. Taylor, at this meeting that you referred to, and you say it lasted an hour and a half, even less than that, I suggested three hours, I will ask you if Mr. Kachlein, before Mr. LeSourd was called, did not discuss with you the affairs of Mr. Forster in detail as found by the accountants?

A. He did not.

Q. Why was there any discussion with you at all then about your own affairs if Mr. Kachlein was withdrawing from the case?

A. We were examining the telephone book to determine who I should hire to take his place.

Q. My question was: Why was there any discussion about your affairs if Mr. Kachlein was withdrawing from the case?

A. There was discussion of my case and who I



(Testimony of L. Hicks Taylor.)

should employ as an attorney and that was all the discussion was about. Mr. Forster's name did not come into that discussion.

Q. I think you have testified, Mr. Taylor, that at that meeting Mr. Kachlein said that he could continue to represent Mr. Forster, or he could continue to represent you, did you not, but not both of you? [4515]

A. That was the purpose of the meeting.

Q. And yet you say Mr. Forster's affairs were not discussed, and that was the purpose of the meeting?

A. I said the purpose of the meeting was to determine whether he was withdrawing from me or withdrawing from Mr. Forster and he withdrew from me.

Q. What had occurred prior thereto between you and Mr. Kachlein that brought up the matter of Mr. Kachlein's withdrawing from either?

A. Mr. Kachlein's own suggestion.

Q. And you had been away on your vacation and returned, this was the first time you saw Mr. Kachlein after your vacation, wasn't it?

A. I 'phoned Mr. Kachlein the night before.

Q. And made an appointment?

A. That is right.

Q. And that is all?

A. That is correct, only he said he must make a decision. That night he told me he had to make a decision.

Q. That night when you 'phoned him?

(Testimony of L. Hicks Taylor.)

A. You bet you.

Q. Make a decision about what? [4516]

A. Whether he would retain me or Mr. Forster; there was conflict, he said.

Q. He told you that on the 'phone that night?

A. He told me that on the 'phone that night.

Q. So that you went down to his office the next morning.

A. To settle that particular point and that only.

Q. And Mr. Forster's matters were not discussed? A. No, sir.

Q. And that was the reason you were being called?

A. They were not discussed at all at that meeting.

Q. Although that was the purpose of the meeting?

A. To determine his position as to whether he would represent me or not, and I had determined that he would not.

Q. You determined that before you went down?

A. I determined that.

Q. Before you went down? A. Yes.

Q. Why did you have any discussion for an hour and a half then that morning? [4517]

A. He had records of mine. He had many records of mine.

Q. Mr. Taylor, you went down in the morning of October 27, 1950, and Mr. Kachlein said to you finally, or explained to you, that Mr.—that he was

(Testimony of L. Hicks Taylor.)

—found himself in the position that sometimes happens with lawyers, didn't he?

A. That is correct.

Q. He said that he was representing you in your civil tax matter and you had brought Mr. Forster to him and he was representing him in this matter then pending; he said that, didn't he?

A. In similar words, yes.

Q. I mean in substance, I do not mean the exact words. He said that it was becoming apparent that there might be a conflict between your interests and that of Mr. Forster, didn't he?

A. That is possible that he did.

Q. He said that you were the first client and that he could represent you. If he did he could not represent Mr. Forster because this conflict might arise. Or, he could represent Mr. Forster and not represent you. Or, number three, he could withdraw from representation of both of you entirely.

A. That is correct. Now you are speaking of what [4518] happened that morning.

Q. That is at the conclusion of that morning?

A. That was the beginning of that morning.

Q. He told you—you discussed with him what the Forster situation was and what had occurred in the Forster investigation during your absence, didn't he?

A. He did not.

Q. Mr. Taylor, only four or five days before you left McNeil Island Mr. Marx and Mr. Eppler had told you that their investigation disclosed at

(Testimony of L. Hicks Taylor.)

least one million dollars of undisclosed income, didn't they?

A. Now, that is getting some truth in it; that is the truth.

Q. And you said you were shocked, didn't you?

A. Yes, I was.

Q. And yet in this conference with Mr. Kachlein if you had been you didn't discuss with him the Forster situation at all?

A. I did not. He did not mention it.

Q. You discussed then whether it would be better for Mr. Forster, or for Mr. Kachlein——

Mr. Griffin: Strike that. [4519]

Q. (By Mr. Griffin continuing): You told Mr. Kachlein that you didn't want him to withdraw but felt he was compelled to withdraw from this matter, didn't you?

A. I was probably a little diplomatic about it, yes.

Q. You suggested to him that inasmuch as he was familiar with the then Forster situation as developed by the accountants and his interviews with the Revenue Agents that if he could find a good lawyer, a good tax lawyer, for you you would suggest that he continue to represent Mr. Forster and get you another lawyer, didn't you?

A. Yes; only I want to explain.

Q. Go ahead.

A. That Mr. Kachlein did not make any discussion of it. The discussion was this: As long as you

(Testimony of L. Hicks Taylor.)

want to withdraw from my case we will try and select a tax lawyer.

Q. Who said that?

A. I think I probably said part of it and Mr. Kachlein the other.

Q. It was perfectly agreeable to you on October 27, 1950, that Mr. Kachlein cease representing you and give his sole representation to your friend, Mr. Forster, wasn't it? [4520]

A. That was understood.

Q. Then there was a discussion as to who you should employ?

A. Yes. We pawed through the telephone book for one-half or three-quarters of an hour looking at the different tax lawyers' names.

Q. Are there any lawyers listed in the telephone book as tax lawyers?

A. That is why we took so much time, we had to read them over. He knew the lawyers.

Q. My question is: Are there any lawyers listed in the Seattle telephone directory as tax lawyers?

A. Not to my knowledge.

Q. No; so, Mr. Kachlein suggested two firms of lawyers experienced in tax work, didn't he?

A. I would say more than that.

Q. He suggested first Mr. Jones of Jones and Bronson, didn't he?

A. I knew of Mr. Jones. He might have.

Q. And you said that you did not think under the circumstances that you would want to employ Mr. Jones because you had at one time had Mr.



(Testimony of L. Hicks Taylor.)

Jones represent Mr. Forster and there might be a conflict there? [4521]

A. I have no remembrance of that discussion but it is possible.

Q. Did he discuss with you then any other lawyer than Mr. LeSourd sitting now across from me at this bar?

A. I remember of two or three other names. I believe there was a Mr.—I can't think of his name. He has a crippled foot.

Q. Paul Coles?

A. Paul Coles. Evich, or somebody like that.

Q. Evich?

A. It seems to me that that name was mentioned and discussed. There were two or three others. I don't remember now who they were.

Q. And you finally got down to Mr. LeSourd, is that right?

A. Yes. Mr. LeSourd had been indirectly recommended to me before.

Q. Even before you employed Mr. Kachlein, had he not?      A. No.

Q. Did you know Mr. LeSourd?

A. I had never met Mr. LeSourd until that morning. [4522]

Q. Mr. Kachlein explained to you that Mr. LeSourd had been in the Government service in the Department of Justice, did he not?

A. It is possible he did. I have forgotten that.

Q. Assigned to the Internal Revenue Agency?

A. I am not positive that that was mentioned.

(Testimony of L. Hicks Taylor.)

Q. And that he was quite familiar with the practice and an expert in the field?

A. I rather doubt that conversation.

Q. What conversation—you discussed several lawyers, you say? A. That is right.

Q. You settled on Mr. LeSourd?

A. I doubt if any great detail of that kind was brought into it.

Q. What did Mr. Kachlein tell you about Mr. LeSourd?

Mr. Moriarty: Objected to as immaterial, if your Honor please.

The Court: Objection sustained.

Q. (By Mr. Griffin): You settled on Mr. LeSourd if he would accept the employment?

Mr. Moriarty: Objection. The [4523] Government did not introduce this and it is extending so long into immaterial matter.

The Court: I think it is clear Mr. LeSourd was selected. The Court will sustain the objection.

Mr. Griffin: I am only interested in the establishment of the selection at the suggestion of Mr. Kachlein and not an independent appointment.

Q. (By Mr. Griffin): So, Mr. Kachlein called Mr. LeSourd on the telephone to see if he would represent you, didn't he?

A. At my request, yes.

Q. And Mr. LeSourd came to Mr. Kachlein's office on October 27, 1950?

Mr. Moriarty: Objected to as immaterial.

The Court: Objection overruled.

(Testimony of L. Hicks Taylor.)

A. Yes, he came there.

Q. (By Mr. Griffin): And Mr. Kachlein introduced you to Mr. LeSourd? A. Yes.

Q. And Mr. Kachlein explained in detail in your presence to Mr. LeSourd why he found it [4524] necessary to withdraw from representing you, did he not?

Mr. Moriarty: Objected to as immaterial and not proper cross examination.

The Court: Objection overruled.

A. He did explain that it became a dual representation and that he should withdraw. I don't remember that he mentioned any detail.

Q. (By Mr. Griffin): There was no intimation made at that time by anyone that you were likely to be indicted in connection with the Forster investigation, was there?

A. There absolutely was not.

Q. Each—you at that time, Mr. Forster at that time—were dealing with, simply, an investigation being made by the Internal Revenue Service?

A. I knew an investigation was going on, yes.

Q. No—to your knowledge no—statement was made of any likelihood of a criminal indictment against Mr. Forster, was there?

A. I had not heard of it, no.

Q. Mr. LeSourd accepted the employment then for you? A. As my attorney, yes.

(Testimony of L. Hicks Taylor.)

Q. That ceased any connection between you and Mr. Kachlein on October 27, 1950, didn't it?

A. That is correct. [4525]

Mr. Griffin: And that is all.

### Cross Examination

Q. (By Mr. Keesling): Mr. Taylor, this morning you made the mention as to the ledgers at the time they were turned over that you turned them over to Mr. Erickson. You were referring, were you not, to the time you took them out to Issaquah Creamery in the car? I think you used the phrase you turned them over to Erickson?

A. Yes, but the current ledgers were turned over separate from the files that I took. The current ledgers were turned over separately.

Q. I see; and then you also used the phrase that Mr. Erickson followed through with the ledger. To your knowledge, and from your examination of the ledger here in evidence, at no time did Mr. Erickson make any entries or work with your ledgers to your knowledge?

A. Well, Mr. Keesling, that is hard to answer. I don't believe I have seen any of the 1950 ledger. Whether he posted or not, I wouldn't know.

Q. To your knowledge, you don't know whether Mr. Erickson did any work as far as the ledgers are concerned?

A. No, I have no knowledge of it.

Q. Now, in respect to your work, you had [4526] the exclusive duty, did you not, of computing the

(Testimony of L. Hicks Taylor.)

income tax for Issaquah Creamery, Hans Forster, and Mrs. Forster, his wife, for the years 1945 through 1949?      A. Yes, I prepared them.

Q. And you had the exclusive duty, did you not, of preparing the income tax returns for Issaquah Creamery, Hans Forster, and Mrs. Forster, for the same years?      A. Yes.

Q. And you also had the exclusive duty, did you not, of filing with the Government the tax returns as I have referred to?

A. Yes, and no, in this respect, Mr. Keesling: many times they were signed in my office, and mailed from there, and I think there were times that they were either given to Mr. Forster or in some way taken to Issaquah and mailed from there; but as a whole, they were mailed from my office, I believe.

Q. My questions on all three previous questions are this:

It was your exclusive duty, was it not, to compute the income tax, to prepare the income tax returns, and to file it?      A. Yes.

Q. That is for these Indictment years, 1945 through 1949? [4527]      A. Yes.

Q. Now, Mr. Griffin offered in evidence—before I go into that, referring to Exhibit 258, this chart of accounts, would you refer to account numbers 32 and 33? Is it correct that accounts 32 and 33 are business account numbers? You might read what they are for.



(Testimony of L. Hicks Taylor.)

The tax accounts. There is a group of them, right there.

A. I am looking at Plaintiff's Exhibit 258, which is a schedule of accounts, headed "Issaquah Creamery Company, Incorporated," and it has a heading, "Issaquah" here, "Alpine" there, and the accounts are numbered from 1 to 40, for Issaquah Creamery, and for Alpine they are numbered A-1 to 40, and account No. 31 is "Unemployment Tax"; 32 is "Excise Tax"; 33 is "Other Taxes," and they are on both sides the same.

Q. They are the same numbers and same accounts? A. Yes, that is correct.

Q. And is it true that 32 and 33 are business accounts? A. That is correct.

Q. They have no reference to a drawing account? A. No.

Q. 32 is the item "Excise Tax," is that [4528] correct? A. That is correct.

Q. And 33 is "Other Taxes"?

A. That is correct.

Q. Now, referring to Exhibit A-104, an Alpine Dairy balance sheet of December 31, 1948, there is an item at the bottom there which refers to deduction withdrawals. That account, is it not, is a reference to a drawing account?

A. It is Hans Forster withdrawals, and it is a ledger account.

Q. Yes.

That would be what you would call a drawing account? A. Correct.

(Testimony of L. Hicks Taylor.)

Q. And you testified that that could be traced right into the ledger, and from the ledger right into the journal?

A. It is my recollection that it could be.

Q. Now, I show you Exhibit 272 in evidence, Plaintiff's Exhibit—I put a mark in there—do you find in your ledger account,—this drawing account?

A. Yes.

Q. And would you explain for the record just how it was set up?

It is a half page account, to the top of the [4529] page.

A. The top of the page is marked "Capital Invested."

Q. And that is Alpine, at the full top of the page?

A. Alpine ledger is more than that.

Q. And then, towards the center of the page, you have put in a separate account?

A. I have typed in "Hans Forster Withdrawals."

Q. And in that withdrawal account are what entries?

A. As of March 31st, income tax, \$10,784.42; May 31st, Walter Clark, \$10,000; October 31st, income tax, \$14,000. On the credit side, Walter Clark, \$10,000, leaving a balance in the account of \$24,784.42, this account right under my left hand, (indicating).

Q. Now, Mr. Taylor, will you explain to the Jury why income tax payments go into a drawing account?

(Testimony of L. Hicks Taylor.)

A. It is paid on his personal obligation into the Treasury Department.

Q. An income tax payment is a personal expense, isn't it?      A. That is correct.

Q. Just like his grocery bill; it is not [4530] deductible from any business of any personal account, so far as income tax purposes?

A. Yes.

Q. Now, you testified those figures could be traced right into the journals. I have placed the journals there, and for your easy reference, I have the page and line numbers showing the entries. Your first entry in your ledger, I believe, is March, 1948—March of 1948, is that right?

A. That is correct.

Q. I have under Alpine the 1948 one is the next one.      A. The top one, or the bottom one?

Q. The years are marked on the ends here.

A. I am sorry; I didn't notice that.

Q. Would you refer to the exhibit number, Mr. Taylor?

A. I am looking at Plaintiff's 264 which is the journal of the Alpine Dairy.

Q. Would you look for March of 1948 on page 4 of the Alpine section, at lines 12 and 13?

You find those income tax entries there, do you not?      A. Yes, there are two items.

Q. Those are the two items that were [4531] entered in your ledger and you combined them in a figure?      A. Yes, I have a total.

Q. Now, would you tell the Jury what account

(Testimony of L. Hicks Taylor.)

Mr. Erickson—what account number he placed besides those income tax payments?

A. Account 33.

Q. And that is Account 33 which on the chart refers to other taxes, do you recall?

A. That is correct.

Q. Now, the other income tax item in your ledger, I believe, is for Alpine, October, 1948.

Would you look in the Alpine section for October, 1948, at page 1, line 12, I believe.

A. I have it, yes.

Q. And what is the amount entered there?

A. \$14,000.

Q. That is the same amount as appears in your ledger?

A. That is correct.

Q. Then, as Mr. Erickson has entered it, how did he make that check payable?

A. To the Collector of Internal Revenue.

Q. And those others were also made out that way, to the Collector of Internal Revenue?

A. That is right. [4532]

Q. And what, if any, account number did he put besides that account?

Some, I think, 32 and some 33?

A. This one is registered as account 32.

Q. And account 32 on the chart has excise tax, does it not?

A. Yes.

Mr. Keesling: Would you mark this?

The Clerk: Defendants' Exhibit A-124 marked for identification.

(Testimony of L. Hicks Taylor.)

(Defendants' Exhibit No. A-124 marked for identification.)

Q. (By Mr. Keesling): I show you what has been marked for identification, what purports to be an adding machine tape for Alpine, headed "Miscellaneous." Would you identify that, if you can?

Do you want that page and line number?

A. This appears to be an analysis of the miscellaneous column of the Alpine Dairy Journal account made on an adding machine tape.

Q. I might ask you in reference to the income tax figure, I think he has marked on there 33, also, the same figure that appears in your ledger?

A. Right here on this tape. [4533]

Mr. LeSourd: Just a moment, your Honor. I think this ought to be put into evidence.

Mr. Keesling: Yes, I intend to offer it.

The Court: You want to offer it?

Mr. Keesling: Yes, but I want further identification.

Mr. LeSourd: This, you say,——

Mr. Keesling: (Interposing) Will you mark these?

The Clerk: As one exhibit?

Mr. Keesling: Yes.

The Clerk: Defendants' Exhibit A-125 marked for identification.

(Defendants' Exhibit A-125 marked for identification.)

Mr. LeSourd: We have no objection to A-124, your Honor.



(Testimony of L. Hicks Taylor.)

The Court: Any objection from other counsel?

Mr. Griffin: No, your Honor.

The Court: Mr. Moriarty, any objection?

Mr. Moriarty: No, your Honor.

The Court: A-124 may be admitted.

(Defendants' Exhibit A-124 admitted in evidence.) [4534]

Q. (By Mr. Keesling): Showing you Exhibit A-124, the adding machine tape for March, 1948, is it correct that that is the manner in which the information was transmitted to you as to your entry in the ledger showing the income tax paid?

A. Yes, that is correct.

Q. Now, I show you what has been marked for identification as Defendants' Exhibit A-125. Would you identify that? I have reference to the same items and the same type of thing.

I might say, could you just identify it and then we will go through that particular item. They are adding machine tapes, are they not?

A. Yes.

Q. And there are four of them, is that right?

A. There appears to be five.

Q. Five adding machine tapes, and would you indicate what company and what date appears on them, just for identification?

A. They are marked "Miscellaneous, Alpine."

Q. That is the first one?

A. Yes. May, June——

Q. Just a moment. May of what year?

A. 1946.

(Testimony of L. Hicks Taylor.)

Q. And the next one is "Miscellaneous, Alpine"; that [4535] is the second one? A. Yes.

Q. And that is what date? A. June, 1946.

Q. And the third one is Alpine, Miscellaneous?

A. September, 1946.

Q. And the next one is?

A. December, 1947.

Q. Is that Alpine, also?

A. Alpine; and the next one is Issaquah, March, 1949.

Q. Do you recognize those as the type of tape that you received this income tax information on?

A. Yes.

Mr. Keesling: I offer this in evidence.

(Whereupon, there was a brief pause.)

Q. (By Mr. Keesling): While they are examining that exhibit, there is an additional entry in your ledger under that drawing account, 1948, that you have before you. What is that entry? You mentioned three entries in your ledger under the Hans Forster drawing account.

A. It appears that there is an item of debit and credit of the same amount, marked Walter Clark, and the same date. I don't have any recollection of what it [4536] is at the present time.

Q. Would you take Mr. Erickson's journal for 1948 for Alpine, and see if you could locate that? I don't know what page. I know it is on line 7.

Mr. LeSourd: We have no objection to A-125.

Mr. Moriarty: We have no objection.

The Court: Exhibit A-125 may be admitted.

(Testimony of L. Hicks Taylor.)

(Defendants' Exhibit A-125 admitted in evidence.)

Q. (By Mr. Keesling continuing): I believe it is Clark's Restaurant? A. Yes.

Q. And on what page does it appear?

A. On page 5, Clark's Restaurants.

Q. That would be for May, 1948, in the Alpine section of the journal? A. That is correct.

Q. And on line 7 it shows Clark's Restaurant enterprises as the payee? A. Yes.

Q. And the amount is under what column?

A. The accounts receivable.

Q. And that account is what?

A. Ten thousand dollars. [4537]

Q. And that same amount appears in your ledger? A. That is correct.

Q. Now, showing you Defendants' Exhibit A-125, referring to the first of those five tapes, will you state to the jury what account number is opposite the income tax item? Would you give the date, too?

A. May, 1946.

Q. That is Alpine?

A. On Alpine, there is an item marked income tax, \$300, and the number 33, following.

Q. That 33 is the other taxes account item that you referred to before?

A. Yes, I believe that is correct.

Q. I show you the chart again.

A. Yes.

Q. It is 258.

A. I will suggest I have it here.

(Testimony of L. Hicks Taylor.)

(Whereupon, document was handed the witness by Mr. Keesling.)

A. (Continuing) Thank you.

Q. I am referring only to 32 and 33. I think those were the only numbers he used.

Now, will you identify the second tax as to how Mr. Erickson put that down on the tape for you?

A. I am still referring to Defendants' Exhibit [4538] A-125.

Q. And there is the second——

A. (Interposing) Under the miscellaneous Alpine taxes, there is an item income tax, \$5300, 32 marked. Account 32 is excise tax.

Q. And what month and year was that?

A. In June, 1946.

Q. On that June, 1946 one, he marked the account 32? A. Yes.

Q. And then on the third tape, how did he mark it on that, and what was the date on that?

A. The third date is dated September, 1946, and he has income tax, \$2500, account No. 33 following it.

Q. And that one he charged to account 33; and the next one, how did he charge that?

A. He has income tax—wait—for December, 1947, he has income tax, \$11,000, account 32.

Q. \$11,000 to account 32; and the next tape, the date, and how he charged it on that?

A. The next tape is dated March, 1949, and is from the miscellaneous column of the Issaquah

(Testimony of L. Hicks Taylor.)

journal and he has income tax, \$2,360.96 in account 33.

Q. Is there another one there, a last tape?

What is the date on that, and how he has charged that income tax item?

A. I read you the last tape.

Q. Oh, that was the last one? A. Yes.

Q. Now, on this Exhibit, A-125, will you take the June, 1946, the second tape, and trace that into the Alpine journal kept by Mr. Erickson? I think it will be on page 1, page 3 at line 28.

A. Line——

Q. It might also refer to page 1, line 8. I think there is a combination of figures there shown on the tape. A. Line 8.

Q. Page one?

A. Page one, Collector of Internal Revenue, \$300, charged to account 32.

Q. And then on the tape there is a \$5300 figure?

A. Yes.

Q. And would that have reference—the first entry in the journal has 300, and does the figure for the same month on page 3, line 28——

A. (Interposing) Line 28 has an entry to the Collector of Internal Revenue for \$5,000.

Q. That would make the total of \$5300 shown on [4540] the tape? A. Yes.

Q. On that last entry, how did Mr. Erickson charge that; to what account number?

A. He has written income tax, \$5300. He charged it to account 32.



(Testimony of L. Hicks Taylor.)

Q. He charged it to account 32?

A. Yes.

Q. That is the 1946—I am just taking one out of each year.

Now, will you turn to the tape for 1947. If there is more than one, just pick one and we will trace that into Mr. Erickson's journal.

Would you state what month the tape is and what company, please?

The Court: Is it agreeable to recess, Mr. Keesling, now?

Mr. Keesling: Yes, it is quite all right.

The Court: Then you can have the matter in mind, Mr. Taylor.

The Witness: All right.

The Court: Ladies and Gentlemen of the Jury:

We will take the mid-afternoon recess. The Court calls your attention to the admonition given on similar occasions and asks that you heed it on this [4541] occasion. You may now be excused.

(Whereupon, the jury retired from the court room.)

(Whereupon, at 2:46 o'clock p.m. a recess was had in the within-entitled and numbered cause until 3:01 o'clock p.m. April 22, 1954, at which time, counsel and defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: You may call the Jury.

(Whereupon, the Jury was returned to the court room.)

(Testimony of L. Hicks Taylor.)

The Court: You may be seated.

It is stipulated that the Jury and all Defendants are present in the court room?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

The Court: You may proceed, Mr. Keesling.

Q. (By Mr. Keesling): Mr. Taylor, you have before you now the adding machine tape for December, 1947, Alpine? A. Yes.

Q. And you are tracing that into Mr. Erickson's journal for the income tax entry there. Would you state to the Jury, I think it is on page 4, line 29, what the [4542] entry there shows?

A. Payable to the Collector of Internal Revenue, \$11,000, and it shows on the tape, income tax, \$11,000.

Q. And what account number has Mr. Erickson charged it to on his books? A. 32.

Q. Account 32? A. Yes.

Q. And that is the Excise Tax account on the chart? A. Yes.

Q. Now, you have already traced into Exhibit A-124, which is a 1948 tax—into the 1948 ledger. I show you this one. This is the one that appears in your general ledger in the drawing account, is that correct? A. Yes; \$10,784.42.

Q. Now, for the year 1949, would you take the tape—that is, on the Issaquah—and would you trace that into the 1949 Issaquah journal kept by Mr. Erickson?

(Testimony of L. Hicks Taylor.)

I think you will find that under March, 1949, at page 1, line 21.

A. Line 21, Collector of Internal Revenue, \$2,-360.96, marked income tax on the tape.

Q. And what account number on the tape?

A. 33.

Q. And does it show an account number there in the journal?

A. It does not. It just shows income tax.

Q. Now, in the year—incidentally, before you close that, would you show the jury the columns in Harold's journals the adding machine tapes were made on? The adding machine tapes refer, do they not, to the miscellaneous column, and the sundries column only?

I don't mean the particular tape, but the tapes in general? A. Yes, the tapes cover——

Q. (Interposing) Would you show? That is the first column under Sundries and the last column under Miscellaneous?

A. The sundries column, under my finger here, and the miscellaneous column is here (indicating).

Q. Now, the columns in his journal in between the first and the last entries, what are the headings of those columns?

A. Reading them straight across the page, you have Bank, Debit and Credit, Sundries, Debit and Credit, Accounts Receivable, Debit and Credit, Accounts Payable, Debit and Credit, Cash, Debit and Credit, Sales, credit, Miscellaneous, Debit, Alpine Clearing Account, Debit and [4544] Credit.

(Testimony of L. Hicks Taylor.)

Q. Now, it is only on the two columns of sundries and miscellaneous that Harold made adding machine tapes, is that right? I mean, that was the usual practice? A. Yes.

Q. But on the other columns you posted directly from his journal? A. The footings, yes.

Q. You didn't have tapes to post?

A. Yes, directly to a controlling account.

Q. As an example, on this same account that we were referring to, this drawing account, in your ledger—it is Exhibit 272—a drawing account for Alpine that has been referred to under 1948, the second entry, what is that second entry?

A. Well, that is a charge to Walter Clark.

Q. And you just now traced that into the accounts receivable of Mr. Erickson?

A. That is correct.

Q. And you post that to your ledger; you wouldn't post that account receivable from a tape, would you?

A. Well, unless that was in the sundries column.

Q. That is right, but it was, in fact, in the accounts receivable column; is that right? [4545]

A. Yes.

Q. So, you took it from his journal, did you, from his accounts receivable column, and then put it in your ledger from there; would that be an example of how the accounts receivable are posted?

A. At times, yes. It could be, and sometimes he made me a tape of them.

Q. But generally it was the practice to make

(Testimony of L. Hicks Taylor.)

the tapes only on sundries and on miscellaneous?

A. Yes. As a rule, there were not many entries in the accounts receivable column.

Q. Now, would you take the year 1945 and the Issaquah journal, and if you will, check page 1, line 14, for the income tax item there? It is line 14, page 1, of March, 1945. I have no tapes on that.

A. It is on line 14. Is that the one?

Q. Yes, on the Issaquah section, page one, line 14.

A. It is marked Collector of Internal Revenue, \$6,721.42.

Q. And to what account did he charge that on his books?

A. He got it marked account 32.

Q. Now, will you turn to the Alpine section for the year 1945, and take January, 1945, on page 3, and [4546] line 16? A. Yes?

Q. What do you find there?

A. \$5,713.44.

Q. And the amount paid to the Collector of Internal Revenue?

A. Yes, the amount paid to the Collector of Internal Revenue.

Q. And to what account number did he charge it? A. He has here 33.

Q. 33 is the "Other Taxes" on the chart?

A. That is correct.

Q. Now, will you turn to June, 1945, page 1, at line 9? Would you just read the entry there, please?



(Testimony of L. Hicks Taylor.)

A. He has got Collector of Internal Revenue, \$5,000, marked "Income Tax".

Q. And is it charged to an account number?

A. No, he didn't put the number on **that**.

Q. There is no number on that. Now, will you turn to November of the same year, 1945, page 3, line 27?

Mr. Maxwell: Is this Alpine or Issaquah?

Mr. Keesling: This is Alpine.

A. Collector of Internal Revenue, \$5,075.76, [4547] marked "Income Tax."

Q. (By Mr. Keesling): And what account number did you charge that to?

A. Account 33.

Q. Now, the next entry, December, 1945, would you look at page 3 for December, 1945?

A. What line?

Q. Line 24, page 3.

A. Collector of Internal Revenue, \$291.52, account 33.

Q. Account 33?            A. Yes.

Q. Now, in reference to the 1948 entries, your entry of setting up the drawing account in Exhibit 272 and the 1948 tape, do you have that up there? It is a separate one.            A. Yes.

Q. In that year, you took the income tax payments from his miscellaneous column and he had charged those to account 33, that business account; that is right, isn't it?

A. Yes, he marked the income tax.

Q. Yes; then you set up a separate drawing ac-

(Testimony of L. Hicks Taylor.)

count and placed it where it should belong, is that right? [4548]

A. I moved it from the total of this miscellaneous and posted it to Hans Forster account, because it is not an expense item.

Q. As a matter of fact, on the tape itself,—

A. (Interposing) It is labelled.

Q. I refer to A-124, the 1948 account, it shows that you removed the total amount of that income tax from your business expense items, does it not?

A. That is correct.

Q. Now, throughout 1945, '6, '7, '8 and '9, from the tapes and the ledger before you, it is apparent, is it not, that throughout those years, Harold kept charging this personal expense item to a business account number; isn't that true?

A. In the miscellaneous column, yes.

Q. In the miscellaneous column; as a matter of fact, if in that 1948 entry, you hadn't pulled it out and removed it from business expense, it would have been another item that he had charged as business expense when in reality it was a personal expense; isn't that right?

A. That could be true.

Q. And if all these income tax payments had gone through the books as Mr. Erickson had originally charged them, to account 33 or 32, there would have been, [4549] would there not, some 247 thousand dollars—that is the amount of tax payments paid through those years—if they had gone through the accounts as Erickson set them up, that amount would be an addition charged to business ex-

(Testimony of L. Hicks Taylor.)

pense, when in reality it was personal expense; isn't that right?

A. If they hadn't of been removed from the tape, yes.

Q. But, when it came to you, you set them up in a drawing account?

A. That is correct, yes.

Q. Now, isn't this a good example of your statement, an accountant doesn't just merely take figures out of the subsidiary books and put the same figures in the final books of account, the ledger; you testified, I believe, that he must analyze and see that they are placed in the right place, is that correct?

A. Especially when something is labelled as this is, "Income Tax."

Q. That is what I mean.

A. When it is labelled properly, we put it under the proper account.

Q. In other words, it was obvious from the tapes and his books that here he was charging a personal expense to a business account, and that was obvious to you and [4550] that is why you set up the drawing account?      A. That is correct.

Q. And if you hadn't put it in a drawing account, and the same thing occurred over all the years, there would be another \$247,000 personal expenses charged to business, isn't that right?

A. It is possible.

Q. If you hadn't caught the mistake and corrected it?

(Testimony of L. Hicks Taylor.)

A. There wasn't any mistake here.

Q. I mean, the way he charged it, in account 33?

A. That wasn't any mistake.

Q. But it was——

Mr. LeSourd: (Interposing) Let him answer.

A. (Continuing) It wasn't a mistake, because he labelled each one of these what they are.

Because he put them in the miscellaneous column wouldn't mean it was a mistake.

Q. (By Mr. Keesling): My point is that throughout all these years, he put the account number as either account 32 or 33, and as you stated, both of those accounts are business accounts; that is right, isn't it? A. Yes, but—— [4551]

Q. (Interposing) And, further——

Mr. LeSourd: (Interposing) Just a moment. Let him finish.

A. (Continuing) He writes the account it covers. He has "Real Estate Tax, Unemployed Tax, Income tax, and Dues."

Q. (By Mr. Keesling): That is right, but——

A. (Interposing) He puts in the proper caption on this.

Q. But he put the incorrect account number?

A. The mix-up of accounts wouldn't make any difference if he labels it what it is.

Q. Now, throughout these years in view of the fact that he was charging this personal expense item to either Account 32 or 33, he was charging that to business and did it never occur to you that

(Testimony of L. Hicks Taylor.)

he was probably charging other personal expense items to business?

A. No. Here is a list with the list of the names of the commodities.

Q. I am referring only to Account 33.

A. 32 and 33, he has analyzed them himself.

He must have made a mistake in jotting the number down, but he has income tax and real estate tax properly labelled. [4552]

Q. That is right, but throughout all the years he improperly put down one of two things, either a business account 32 or business account 33, when in reality it isn't business at all, it is a personal account, and you picked up the mistake in 1938 and changed it and set up a drawing account in your ledger to make that correction?

Mr. Griffin: 1948.

The Court: 1948.

Q. (By Mr. Keesling continuing): 1948, excuse me.

A. Because he has it labelled "Income Tax".

Q. That is true.           A. Yes.

Q. And my question and my point is:

That throughout these years where he put this label of a business account on a personal item, it was obvious from the tapes that he was charging it to 32 and 33, business accounts, did it never occur to you, where this involved business under income tax, forty-seven thousand over the years, didn't it ever occur to you that he was making the



(Testimony of L. Hicks Taylor.)

same mistake by posting other personal items to business accounts?

Mr. Moriarty: Object to the form of the question, It is argumentative and repetitious. [4553]

The Court: Well, if the witness understands the question——

Mr. Keesling: (Interposing) That is my last question.

A. For the simple reason that the numbers were only for Harold's convenience—the ledger here presents everything I got to the name of the account, the name of the account, when he put it down here, that was correct. The number didn't count. I didn't have any numbers up there. I didn't go by numbers. I went by the name of the account, and he always labelled the name of the account on here.

Q. (By Mr. Keesling): Then, as far as you were concerned, the number had nothing to do with it?

A. No, it was for his convenience in his work.

Q. In this particular instance, he had both a number and a label, but he labelled it correctly; he labelled the income tax part of it correctly, and the account number, 32 or 33, incorrectly?

A. Well, I paid no attention to the numbers.

Mr. Keesling: I have no further questions.

The Court: Mr. LeSourd, do you want to go on redirect, or——

Mr. LeSourd: (Interposing) I suggest that the rest [4554] of the cross be completed before redirect, your Honor.

(Testimony of L. Hicks Taylor.)

The Court: All right.

Cross Examination

Q. (By Mr. Obenour): Mr. Taylor, do you recall the name of the Assistant United States Attorney to whom you referred as handling the case involving your personal income tax?

A. It was Mr. Sageer, I think.

Q. Yes; at the time, I believe it was March 2d, when you entered your plea, March 2, 1950, I believe you stated that you had heard nothing about any contemplated action against Mr. Forster; is that correct?

March 2, 1950, is that the date you entered your plea in Tacoma?

A. Yes; I hadn't heard anything contemplated as to Mr. Forster.

Q. And similarly, when you received your sentence, April 25, 1950, you heard of no action concerning Mr. Forster?

A. When you say "action," Mr. Marx had called Mr. Forster on the 21st. That is all I had information on. [4555]

Q. And similarly, in the conference, October 25th, you had not heard that charges were brought against Mr. Forster? A. 27th.

Q. 26th; was that the date?

A. As I understand you, "Charges" or that I knew that he was being audited?

Q. No; of any charges being brought against him? A. No, I had heard of no charges.

Q. And disposition of the case involving your

(Testimony of L. Hicks Taylor.)

personal income taxes and the manner in which it was disposed of had nothing to do with your participation as a party in this case?

A. Not at all, no.

Q. Involving—referring now—to the interest of Mr. Forster, and, as I understand it, you stated you believed he was giving you net interest, is that correct?

A. I believe he was giving me his total actual earned interest.

Q. Net interest, you would refer to it?

A. I would say, if he had one type of business interest paid out, and one type received, he would take what he paid out or what he received, because this return does not call for detail. [4556]

The Clerk: Plaintiff's Exhibit 288 marked for identification.

(Plaintiff's Exhibit No. 288 marked for identification.)

Q. (By Mr. Obenour): Are you familiar with the instruction sheets that accompany the income tax forms. Mr. Taylor?

A. Well, I think I am.

Q. Handing you what has been marked as Plaintiff's Exhibit 288 and referring to the second section, can you tell the Court what that is?

Mr. LeSourd: Objected to, your Honor. It is not in evidence.

Mr. Obenour: I am asking for identification at this time.

Mr. LeSourd: I am sorry.

(Testimony of L. Hicks Taylor.)

A. Well, this appears to be 1945 instructions for Form 1040.

Q. (By Mr. Obenour): Which is the income tax form? A. Yes.

Mr. Obenour: We offer it at this time, if the court please.

Mr. Griffin: We have no objection.

(Whereupon, there was a brief pause.)

Mr. LeSourd: Well, if your Honor please, this is a rather unusual way of proving what the number is, if that is what is sought. I have no objection to it.

The Court: Exhibit 288, you have no objection? Exhibit 288 for identification may be admitted.

(Plaintiff's Exhibit No. 288 admitted in evidence.)

Mr. Obenour: If the Court please, I would ask to read the Jury the instructions pertaining to interest as shown in this instruction sheet for the year 1945.

Mr. LeSourd: If Counsel also brings out from the document that this pertains to personal interest.

The Court: Is that——

Mr. Obenour: It would be reading the instructions referring to dividends and interest that we have been referring to in this examination.

The Court: It refers to personal?

Mr. Obenour: For individual income tax returns.

The Court: For individual income tax returns, you may.

Mr. Obenour: The title is "1945 Instructions for Form 1040, U.S. Individual Income Tax Returns,

(Testimony of L. Hicks Taylor.)

General Instructions,” and on the second page, the third paragraph, under instructions for page one of Form 1040, paragraph [4558] three:

“Dividends and interest: Enter the total of any dividend or interest unless wholly exempt from tax. See General Instructions under ‘Exclusions From Gross Income’.”

And the rest of the paragraph refers to things not in issue here.

Q. (By Mr. Obenour): Now, I would ask you, Mr. Taylor, to examine this paragraph referring to dividends and interest, and what is the only word italicized in that entire paragraph?

A. Well, it says “Total”: “\* \* \* \* Total of any dividends or interest unless wholly exempt from tax.”

Q. And the word “Total” is the only word italicized in the instructions, is that correct?

A. That is correct.

Q. And were those instructions continued throughout the period of the Indictment, 1946, '7, '8 and '9? A. Yes.

Mr. Obenour: May I have Exhibit 286 and 281, please? [4559]

(Whereupon, documents were handed to Mr. Obenour by the Clerk.)

Q. (By Mr. Obenour): Now, Mr. Taylor, I believe you stated that concerning this sale of the Denny Regrade property to Mr. Morris, that you handled the transaction and computed the amounts that were involved; is that correct?



(Testimony of L. Hicks Taylor.)

A. I presume I did, yes.

Q. And there is in evidence A-81, is there not, a receipt that was given for \$500 paid by Mr. Morris as an advance payment upon the Denny Re-grade property?

A. May I examine that receipt, please?

Q. Yes, sir. We are looking for it now.

(Whereupon, document was handed to the witness by Mr. Obenour.)

Q. (Continuing) Handing you Defendants' Exhibit A-81, does that not show that you received \$500 down payment from Mr. Morris as an advance payment of a price of \$15,500 upon this property to which we are referring?

A. It was my recollection that this instrument was never completed. I am just quoting from memory, that both of these were in my file, and that this was never actually consummated.

Q. Was there a payment of \$500 in advance by Mr. [4560] Morris?

A. That I do not remember.

Q. Did you receive the \$500?

A. No, I did not receive it.

Q. Do you know whether or not it was paid to Mr. Forster?

A. That I do not know.

Q. Now, Exhibit 286, I believe you stated, and I hand you Exhibit 286, which is the note, and I believe your testimony was that those computations of figures on the back of that exhibit were in your handwriting?

A. That is correct.

(Testimony of L. Hicks Taylor.)

Q. And it shows the first item of a total of \$15,500? A. Yes.

Q. And the next is an advance of \$500 which is subtracted from \$15,500? A. Yes.

Q. Then you gave Mr. Morris a credit of \$500 upon the price of \$15,500?

A. Yes, on the agreed contract.

Q. Leaving a balance of \$15,000? A. Yes.

Q. And then your computation shows Notes, \$12,680; is that correct? [4561]

A. Yes, that shows up here.

Q. And that is the same figure you used, which is the unpaid balance of the computation on the note from Mr. Forster to Mr. Morris?

A. Correct.

Q. And to that figure of \$12,680 is added the figure \$32.00 for the note stamps?

A. Revenue stamps.

Q. And that is the amount of stamps required for the transfer of this property?

A. I don't know. That was the amount allowed here.

Q. And you credited Mr. Morris with the payment of that? A. Yes.

Q. So that you took the total of \$12,712 and that was subtracted then from the fifteen thousand?

A. Yes.

Q. So that Mr. Forster was credited with fifteen thousand six hundred eighty dollars and you gave Mr. Morris credit for the tax stamps, and that left \$2,288? A. Yes.

(Testimony of L. Hicks Taylor.)

Q. And Mr. Forster received that money?

A. I believe he did. I believe I have seen it somewhere.

Mr. Obenour: May I have Exhibit 71?

Q. (By Mr. Obenour): Would you add the total, please, handing you Exhibit A-118 for the total of the stamps as shown on that photostat of the deed?

A. \$32.55.

Q. So that is within 55 cents of the figure you used?

A. I probably called the County Auditor and asked him what the stamps would be, on a deed for \$14,500.

Q. And, handing you Plaintiff's Exhibit 71, the second page, under date of March 2, 1946, the third item down, what is that item, please?

A. \$2,288.

Q. And is that the same figure that you have for your balance? A. Exactly.

Q. And what is the name opposite?

A. Frank L. Morris.

Q. So that Mr. Forster then received the entire amount of \$15,000, to the best of your knowledge?

A. May I have that? [4563]

Q. Pardon me; is that correct?

A. That is correct. I believe I testified that there was \$15,500 credited.

Q. And the entire amount was then received by Mr. Forster? A. That is right.

Q. Handing you Plaintiff's Exhibit—rather, Defendants' Exhibit A-63, this was an audit report

(Testimony of L. Hicks Taylor.)

submitted by you, December 31, 1932, I believe, is that correct?

Mr. LeSourd: If your Honor please, I don't like to object all the time, but I want to be sure to preserve our record on these matters, that we feel are beyond the scope of the direct and irrelevant and immaterial, and I want to object to this at this time for that purpose, and may I have a continuing objection to it?

The Court: I might say your objection was withdrawn on Exhibit A-64.

Mr. LeSourd: Yes, that is right; I am sorry.

The Court: If you want to make objection to other matters, you may.

Mr. LeSourd: Yes, thank you.

Q. (By Mr. Obenour): That is your audit report that you prepared for Mr. Forster in 1932?

A. Yes. [4564]

Q. I believe you stated that it was quite detailed?

A. Yes.

Q. That was a complete audit report?

A. Yes, a complete audit report.

Q. Did you explain each of those items to Mr. Forster?

A. It is pretty hard to remember, Mr. Obenour.

Q. You discussed it with Mr. Forster?

A. Well, it is my recollection that I did.

Q. Did he ask you any questions concerning it?

A. I am afraid that is too far back to remember.

Q. Do you have any reason to believe that he did not understand your report?

(Testimony of L. Hicks Taylor.)

A. Well, I thought that he understood it when he looked at it.

Q. And you continued to make reports to Mr. Forster through the year 1950?

A. Not audit reports.

Q. Not audit reports? A. No.

Q. But you continued to make reports?

A. Profit and loss statements and balances.

Q. And then after first having submitted [4565] the audit reports of 1932, they then were limited to balance sheets and profit and loss statements in the years of the Indictment and to 1950?

A. Yes.

Q. That was because, was it not, Mr. Forster was interested in two things, one what he had, what he owned, and what he was making?

A. Well, I would assume that that would be what he was expecting to receive.

Q. And that would be the information that he would be receiving each month in your balance sheets and profit and loss statements?

A. Yes, taken from the general ledger.

Q. And you discussed each with him?

A. Oh, I think most of the time we discussed them.

Q. And then was there any reason to believe that he did not understand that; any of the items you have on your balance sheet or profit and loss?

A. Well, I always felt that he knew what they meant.

Q. Now, handing you Defendants' Exhibit A-91,



(Testimony of L. Hicks Taylor.)

which I believe you stated was a report of the Alpine Dairy operations for the ten-year period, 1938 to 1947, is that correct? [4566]

The Court: What number is that?

Mr. Obenour: A-91, sir.

Q. (By Mr. Obenour): Did you get it? A-91?

A. Mr. Obenour, I guess I didn't follow your question.

Q. What is that document?

A. Well, this appears to be Alpine Dairy operations, profit and loss for a ten-year period, 1938 to 1947.

Q. And, as I understand your testimony, it was that you prepared that document from the tax returns of Mr. Forster, is that correct?

A. It is my recollection I stated that I prepared them from the tax returns.

Q. And who requested this particular report?

A. I am not certain whether the bank did or not.

Q. It was submitted to Mr. Forster?

A. Well, Mr. Forster saw it, yes.

Q. Did you explain it to him?

A. Well, I don't know that there was any great explanation but all the figures were here.

Q. Did he know that it was prepared from his tax returns?

A. Oh, that I don't know; I think I might have told him. [4567]

Q. Could it be that Mr. Forster was interested in what he was showing on his tax returns, rather

(Testimony of L. Hicks Taylor.)

than what he was showing on his books or what his books would indicate to be his profit?

A. Maybe I don't quite get the sense——

Mr. Griffin: (Interposing) I object to the form of that question. It is argumentative, and suggestive, and a conclusion, and speculative. If he knows, I have no objection.

The Court: Objection sustained as to form.

Q. (By Mr. Obenour): Now, you have testified, I believe, Mr. Taylor, that the various statements of balance sheets and financial statements, particularly A-65, A-92 and A-93, and A-94, and A-95 and A-97, and A-99, and A-100, were all prepared by you?

A. Might I——

Q. Yes, sir.

(Whereupon, documents were handed the witness by Mr. Obenour.)

Q. (Continuing) And they were prepared during the '30's; would you verify that?

A. A-65 is a balance sheet and profit and loss statement as of December 31, 1935, prepared for the Peoples Bank and Trust Company.

A-92 is a balance sheet and profit and loss [4568] statement of the Issaquah Creamery Company prepared as of December 31, 1933, prepared by me.

The Court: That is what you want to know?

Mr. Obenour: Yes.

A. (Continuing) A-93 is Issaquah Creamery balance sheet and profit and loss statement as of December 31, 1934. It was prepared by me.

(Testimony of L. Hicks Taylor.)

A-94 was a statement given to the Issaquah State Bank, December 30, 1935, prepared by me.

A-95 is a statement as to December 31, 1935, to give to the First National Bank of Stanwood, prepared by me.

Exhibit A-99 is a balance sheet of the Issaquah Creamery Company as of December 31, 1938, prepared by me.

A-100 is a balance sheet and profit and loss statement and a number of work sheets attached to it, prepared by me.

Q. (By Mr. Obenour): These were all prepared during the '30's? A. Yes.

Q. I believe you described these as being prepared during critical times for Mr. Forster, is that correct? A. Yes.

Q. You discussed each of them with Mr. Forster? [4569]

A. It is my recollection that I did.

Q. What was Mr. Forster drawing from Issaquah Creamery during these critical times?

A. As of December 31, 1938, his salary was eighteen thousand dollars.

Q. And prior to that, it had been ten thousand five hundred dollars?

A. To the best of my recollection, yes.

Q. And was this salary voted for Mr. Forster?

A. Well, I believe so. As far as I remember.

Q. By whom?

A. By the Issaquah Creamery Company, Incorporated.

(Testimony of L. Hicks Taylor.)

Q. And of whom did that consist?

A. Mr. Forster, and I was a qualified shareholder acting as secretary and director.

Q. So that it was you and Mr. Forster that voted this salary for Mr. Forster?

A. Well, I probably said "Aye", but I wasn't very strong in there.

Q. Was it voted at all?

A. I think so.

Mr. LeSourd: Just a moment. I will object as irrelevant and immaterial.

The Court: Objection sustained.

Mr. Obenour: If the Court please, I go on the basis of prior testimony that this man has made [4570] concerning the effect of voting salaries.

The Court: I don't think it is material. You object to it.

Mr. LeSourd: Yes, sir.

Mr. Obenour: I would ask one more question, if the Court please, as to whether this salary was being voted, if that is why it was included as such on the tax return. In effect, that is what he stated was the effect on the Renton salary.

The Court: I don't follow you. Do you want to say it again?

Mr. Obenour: He stated that the reason the salary was or wasn't included as pertaining to Renton was because Forster was not voted while Baskett and Schneider were, and I am asking if this is the same basis he allowed the Issaquah salary.

The Court: Well, objection sustained.

(Testimony of L. Hicks Taylor.)

Q. (By Mr. Obenour): Why was the salary of \$10,500 voted during these critical times, Mr. Taylor?

Mr. LeSourd: Objected to as irrelevant and immaterial.

The Court: Objection sustained.

Q. (By Mr. Obenour): The effect of this ten thousand five hundred [4571] dollars salary was to reduce the profit of the company during this time, was it not?

Mr. LeSourd: Same objection, your Honor.

The Court: Sustain the objection.

Q. (By Mr. Obenour): I believe you stated Mr. Forster did not draw this salary during this time, did you?

A. To the best of my recollection, sometimes he didn't draw it all.

Q. In fact, that was the basis of some adjustment you made in some of these exhibits and statements that you prepared?

A. Yes, for credit purposes.

Q. I believe you stated he drew \$300 a month during this time?

A. Well, I don't remember exactly what he was drawing.

Q. But the figure of the salary of 10-5 was carried through those years until it was raised to eighteen thousand?

A. Yes, I think that is true.

Q. And whether you used the figure of 10-5 for his salary, or what he actually drew, the amount of



(Testimony of L. Hicks Taylor.)

thirty-six hundred, the difference in those figures made the difference in your calculations as to whether the [4572] company showed a profit or loss; isn't that correct?

Mr. LeSourd: Objected to as irrelevant and immaterial.

The Court: Was that item covered?

Mr. Obenour: Yes, sir; we would go into that in detail here with these exhibits as it was on the examination on the difference in the exhibits. Mr. Griffin, in introducing these exhibits——

Mr. LeSourd: (Interrupting) Maybe I am confused as to counsel's purpose.

The Court: Yes. I don't know that the introduction of these exhibits permits a detailed examination of various items in them, unless they are related to the period covered. That wasn't the purpose of their admission.

Mr. Obenour: It is my understanding, if the Court please, it was shown on the examination by Mr. Griffin that these adjustments were made.

The Court: I think, on the drawing account, there was some testimony.

Mr. Obenour: That is to what I was referring, the salary which was actually charged, which was the basis of his adjustment in these balance sheets, as compared to the salary he really received.

Mr. Griffin: My purpose on that, if the Court [4573] please, was to show that there was a place to charge personal items. I didn't go into the matter of salary.

(Testimony of L. Hicks Taylor.)

Mr. LeSourd: I would have no objection to this, your Honor, if it went to the matter which I think was covered before, the fact that undrawn salaries were taken out of the statements that went to the bank when they wanted to show what the actual credit situation was, but I am confused as to what counsel is attempting to go into here.

The Court: Well, I am not clear what the idea is, either. The Court will sustain the objection.

Q. (By Mr. Obenour): What is the purpose of a balance sheet, Mr. Taylor?

A. A balance sheet is to show the assets and liabilities, and the assets and fixed assets of a company, less liabilities, to develop a net worth.

Q. To show what a person or a company is actually worth, is that correct?

A. That is correct.

Q. A man can own just so much, can't he?

A. Well,—

Q. (Interposing) Of fixed amount?

The Court: What is the question now? [4574]

Q. (By Mr. Obenour continuing): A man owns just so much property, is that not true?

Mr. LeSourd: Objection.

The Court: Objection sustained.

Q. (By Mr. Obenour continuing): You stated that these balance sheets show many stories, according to the purpose?

A. Did I say "many stories"? I meant to say that they have purposes.

(Testimony of L. Hicks Taylor.)

Q. And they show a different story with each purpose.

A. Well, I might explain that slightly, that people try to obtain credit from the bank and borrow, and the bank is not interested in income tax figures; they are interested in market value, and many times, statements that are given to banks do not agree with the books of a bank depositor, because he is giving a market value.

Q. What is the purpose of a profit and loss statement?

A. That is to show what a man's operating profits are for the period.

Q. Take the amount of money he received and subtract the amount of money he spent, and that shows a profit and loss?

A. That is in a sense it, unless you have what [4575] they call revolving figures, such as inventory.

Q. Now, these tell many stories, too, according to their purpose?

A. Profit and loss statements do not tell many stories, no.

Q. They do not tell many stories?

A. No, they tell one story, as a rule.

Q. They tell one story, as a rule? A. Yes.

Q. Now, the Government is concerned, is it not, with a man's profit and loss statement?

A. That is the principal thing they are interested in.

Q. And they are interested in exactly the same

(Testimony of L. Hicks Taylor.)

figure, are they not, that the bank is interested in in the profit and loss statement?

A. That is true.

Q. Where did you get the figures for your statement in these exhibits that you have there?

A. They were taken from the books, and possibly some appraisals put into some of the things.

The Court: When you referred to "these",—

Mr. Obenour: (Interposing): Exhibits previously referred to.

The Court: Profit and loss statements and [4576] balance sheets for the 1930 period?

Mr. Obenour: Yes.

A. I might read to you from Exhibit 94 a little footnote that might give you a little thought on this. This is a balance sheet of November 30, 1935, given to the Issaquah State Bank. The milk routes which have been developed in the natural operation of the business, many times you can't sit down and say a route—I have spent so much over six months' time, and make a route for 300 customers, in six months' time, that starts in with 100. That route is worth more money, so Mr. Forster, being familiar with those things, placed an appraisal on his routes, and I made a footnote here for the Issaquah State Bank, "Milk routes have been increased \$20,000 to actual value and surplus credited."

In other words, to make a balance sheet, if you put it on one side, you have to put it on the other, so surplus was credited with this \$20,000 to show that Mr. Forster felt that his routes were worth

(Testimony of L. Hicks Taylor.)

\$20,000 more than appeared on the books, so while he has no definite profit, he is putting a value on them for loan purposes.

Q. (By Mr. Obenour): You got the figures for the statement from the books? [4577]

A. It is my recollection that they were always taken from the books.

Q. And were they all prepared for the purpose of showing the bank, Bank of Stanwood, Peoples Bank, Issaquah State Bank?

A. That was the critical period we mentioned.

Q. Profit and Loss should be the same way, submitted to the bank, or submitted to the Government, is that correct?

A. As a rule they agree.

Q. Would you take Exhibit 92, please, and what purpose was that prepared for, that exhibit?

The Clerk: A-92.

Q. (By Mr. Obenour continuing): A-92.

Mr. LeSourd: It will be understood, your Honor, that our previous objection to this line of testimony and the exhibits continues at this time as to inquiry by counsel for the Government? We objected to these exhibits when they came in as being irrelevant and beyond the scope of the direct examination, and I assume, having been entered once over our objection, now everyone, including ourselves, will have to go in and explain them, but I think for the record we should have our objection continue. [4578]

The Court: The objection may show. If the Government has no objection, you may have a con-



(Testimony of L. Hicks Taylor.)

tinuing objection on that ground, and if there is any specific objection to a question, you will raise it.

Mr. LeSourd: Yes.

The Court: Your objection then will go to those matters to which you objected.

Mr. Moriarty: You mean the examination on the exhibits; is that what you mean, Mr. LeSourd?

Mr. LeSourd: Yes, the examination on all these early years that we feel are not a part of the case.

Q. (By Mr. Obenour continuing): What is A-92 please, sir?

A. A-92 is a balance sheet and profit and loss statement as of December 31, 1933.

Q. What is the purpose for which that balance sheet and profit and loss statement were prepared?

A. Just examining it, I would say that it was just the regular year-end statement.

Q. That was the one that was used in the preparation of the tax returns?

A. Well, not seeing the tax return, I presume it is.

Q. The one for the year-end?

A. That would be given—— [4579]

Q. (Interposing) Would you take Exhibit 95, please? And would you hold——

The Court: (Interposing) A-95? (

Mr. Obenour: A-95, yes, sir.

Q. (By Mr. Obenour continuing): Would you keep that A-92 out now, please, for the profit you show there? A. Yes.

Q. What is that document?

(Testimony of L. Hicks Taylor.)

A. This was a document prepared for the First National Bank of Stanwood.

Q. And that is on the outside page of this Exhibit A-95?      A. That is right.

Q. On the inside of that page, you have net profits, do you not, and a figure for the year 1932; what is the net profit you show on Exhibit A-95?

A. Again, I must call your attention——

Q. (Interposing) What is the figure, please?

A. (Continuing) ——that this was made for credit purposes, and I will explain it.

Q. Would you please answer the question?

Mr. LeSourd: Mr. Obenour, was your question for the year 1932?

Mr. Obenour: 1933. [4580]

Mr. LeSourd: 1933.

A. This statement——

Mr. Obenour: If the Court please, I ask that this witness answer the question, please.

The Court: Mr. Reporter, read the question.

(Whereupon, the following was read by the reporter.)

“Q. On the inside of that page you have net profits, do you not, and a figure for the year 1932; what is the net profit you show on Exhibit A-95?

“Q. What is the figure, please?

“Q. Would you please answer the question?”

The Court: Now, the question is that it was written on A-95?

Mr. Obenour: Yes, sir.

The Witness: That is for 1932.

(Testimony of L. Hicks Taylor.)

Mr. Obenour: 1933.

A. 1933, I show an earning of \$12,697.27.

Q. (By Mr. Obenour): That is twelve thousand?

A. That is right.

Q. And that is how much greater than the profit and loss statement you prepared at the end of your year's operation? [4581]

A. It is \$10,677.87 more. [4582]

\* \* \* \* \*

### L. HICKS TAYLOR

upon being recalled as a witness for and on behalf of the Defendant Taylor, and having been previously duly sworn, testified as follows:

#### Cross Examination—(Continued)

Q. (By Mr. Obenour): We were discussing Mr. Taylor, the differences in the profits shown on the profit and loss sheet prepared for the end of 1933 and for the year 1934, and with the figure you show for the profit on the financial statement, Exhibit A-95, submitted to the Bank of Stanwood in 1935; do you recall? A. Yes.

Q. Did the Issaquah Creamery for the year 1933 make a profit of \$2,019.40 or did they make a—or did they make a profit of \$12,697.27?

Mr. LeSourd: Objected to, your Honor, as irrelevant and immaterial, and beyond the scope of direct examination.

The Court: Objection overruled.

Mr. LeSourd: May we have a continuing objection to this line, your Honor?

(Testimony of L. Hicks Taylor.)

The Court: Yes; the same objection you made last night? [4590]

Mr. LeSourd: Yes, sir.

The Court: The record may show you have a continuing objection. That is agreeable?

Mr. Obenour: Yes, sir.

A. The profit shown on the balance sheet and profit and loss statement of the Exhibit A-92 for the year 1933 shows a profit that—I am not—not having the tax return, I assume that this was what was reported on the tax return, \$2,019.40.

Q. (By Mr. Obenour): Was the profit for Issaquah Creamery for the year 1933 \$2,019.40 as shown on that profit and loss, or was it \$12,697 as shown on Exhibit 95?

A. The profit that is shown on Exhibit A-95, prepared for credit purposes, displays \$12,697.27 which has been developed by restoring, or applying undrawn salary and a depreciation figure that is estimated on our—on the Issaquah Creamery part as not applying altogether from a credit standpoint. The Internal Revenue regulations allow a determinate depreciation, usually a suggested depreciation schedule, which we have used throughout the period.

So, in order to——

Mr. Obenour: If the Court please, I would ask that the witness be directed to answer the [4591] question as put. There is one of two answers that could be given, and we would request that the witness be so directed to answer.

Mr. LeSourd: If your Honor please, he is an-

(Testimony of L. Hicks Taylor.)

swering it and I submit he should be entitled to answer it.

The Court: You may. You may proceed with the answer.

The Witness: Thank you.

A. (Continuing) The thought in this particular position is: a banker is not sitting in the same position that the Internal Revenue is. A banker is interested in the development of value, market value. He is not dealing with income tax.

So, at this particular time, which is back in 1933, right at the peak of the depression, borrowings were very difficult to get. The people were jumping off of the Smith Tower, and all places.

The Court: Mr. Taylor, your answer will have to be more confined than that. You may explain it without the various diversions.

The Witness: I apologize, your Honor.

A. (Continuing) So, to develop a figure for the bankers' perusal, we took the \$2,019.40 that shows on the book figures, and we restored \$6900 of Mr. Forster's [4592] salary that he had not drawn, and we restored a portion, \$3,777.87 to the depreciation, which gave us a possible profit of \$12,697.27 which is shown on the banker's report.

Q. (By Mr. Obenour): In 1934, did Issaquah Creamery lose \$1.75 or make \$11,469.36?

Mr. Obenour: And I would ask the Court, please, the witness to be instructed to answer which of those two figures is the true picture of the profit



(Testimony of L. Hicks Taylor.)

and loss of the Issaquah Creamery for the year 1934.

The Court: Mr. Obenour, the witness is dealing with statements here, and the Court doesn't believe it should instruct the witness how the answer should be given in this case.

A. The profit on the statement, on Defendants' Exhibit A-93, does show a loss of \$1.75, but the same explanation carries forward into 1934 that I just explained for 1933.

Q. (By Mr. Obenour): Did you discuss these two figures with Mr. Forster in 1935?

A. Yes.

Q. Did you discuss the figure that you prepared on Exhibit A-95, the statement submitted to the Bank of [4593] Stanwood in 1935? A. Yes.

Q. Did he understand the difference between a showing of a loss of \$1.75 in the year 1934 and a profit of \$11,469 that you show as a profit for the previous year?

Mr. Griffin: Objected to as calling for the conclusion of a witness not based upon fact. Asking for another man's opinion of another man's understanding.

The Court: I believe the objection is well taken, Mr. Obenour——

Mr. Obenour: (Interposing) Yes, sir.

The Court: (Continuing) ——as to form.

Q. (By Mr. Obenour continuing): Did Mr. Forster indicate in any way that he did not understand

(Testimony of L. Hicks Taylor.)

the difference in these two figures that you prepared for the statement of the bank at Stanwood?

Mr. Griffin: Object to the form of the question. It calls for his indication.

The Court: The question is, did he indicate?

Mr. Obenour: Yes, sir.

The Court: I assume that could be answered "yes" or "no."

The Witness: I am lost on the question. I am sorry. [4594]

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

A. No.

Q. (By Mr. Obenour): You have Exhibit A-65 and Exhibit A-95 there, please? A. Yes.

Q. What are the dates of each of those exhibits?

A. They are both dated December 31, 1935.

Q. What was the purpose of A-65?

A. I believe it is the year-end final statement of the Issaquah Creamery.

Q. And I believe you stated A-95 was for the purpose of credit from the bank at Stanwood?

A. Yes.

Q. What do you show for sales on A-65?

A. \$477,961.54.

Q. What do you show for sales on A-95?

A. \$480,472.26.

Q. A three thousand dollar adjustment, approximately?

(Testimony of L. Hicks Taylor.)

A. Yes, it appears some place else in the statement. [4595]

Q. That is a balance sheet item or profit and loss? A. Profit and loss item.

Q. Profit and loss item? A. Yes.

Q. And cash, for A-65 is what?

A. \$2,197.03.

Q. And cash on A-95 is what?

A. It shows an O.D. of \$6,213.76.

Q. Is that a balance sheet item or profit and loss item? A. Balance sheet item.

Q. And your inventory for A-65 is what?

A. \$10,167.00.

Q. And for 95? A. \$11,167.00.

Q. That is an adjustment of an even one thousand dollars? A. That is correct.

Q. Accounts receivable on A-65?

A. \$27,709.69.

Q. And on A-95? A. \$30,709.69.

Q. That is an even adjustment of three thousand dollars? A. That is correct. [4596]

Q. And those last two items are balance sheet items or profit and loss items?

A. They are balance sheet items.

Q. You made these adjustments? A. Yes.

Q. Where did you get the figures?

A. Without having all the work sheets, I am going to have to declare it from recollection. It appears that we have adjusted \$1,000 to inventory from accounts receivable, and that a reserve account has been eliminated in the one statement.

(Testimony of L. Hicks Taylor.)

Q. Where did you get the basis?

Who gave you these figures for this adjustment then? A. They were calculations.

Q. Calculations by whom?

A. I presume by me. I prepared them.

Q. Were they taken from your books?

A. Yes, these were taken from the books.

Q. These show a different picture on the balance sheet?

A. They were for two distinct purposes, you know.

Q. This is an instance again of where the difference in purpose is a difference of the story that a [4597] balance sheet shows? A. Yes.

Q. And what is your profit for A-65?

A. It shows a loss of \$1,369.37.

Q. And for A-95?

A. It shows a profit of \$13,732.75.

Q. That is an adjustment upward of \$15,000?

A. Yes.

Q. Is that also the case where the profit and loss statement shows a different story for a different purpose, too? A. Yes.

Q. Then, a profit and loss, as well as a balance sheet, shows a different story, depending on the purpose of it?

A. From a credit standpoint, yes.

The Banker is interested in market, not cost; interested in market, what a liquidated value can develop.

(Testimony of L. Hicks Taylor.)

Q. Did Mr. Forster complain in 1933 about a profit of \$2,000?

A. You are asking one that is too far back; I do not remember.

Q. How about a loss of \$1.75 in 1934, did he complain about that? [4598]

A. I do not remember.

Q. Did he complain about his loss of \$1300 in 1935?

A. I do not remember.

Q. You have A-99 and A-100 there, please?

A. I have A-99.

Q. Do you have those two exhibits?

A. I have A-99 and A-100, yes.

Q. What is A-99, please?

A. It is a statement of the Issaquah Creamery Company, December 31, 1938.

Q. And A-100?

A. That is the same statement attached to the work sheet, and it is part of the working books of the company.

Q. They are both balance sheets for the same date, Issaquah Creamery?

A. Yes.

Q. What was the purpose of A-99?

A. There isn't anything to indicate what the purpose of it was for.

Q. What was the purpose of A-100?

A. That is the work sheet and balancing figures from the ledger of the Issaquah Creamery Company.

Q. Was that submitted to anyone for loan purposes? [4599]

A. No, not that I recollect.



(Testimony of L. Hicks Taylor.)

Q. What is your inventory figure for A-99?

A. \$15,169.43.

Q. And A-100? A. \$16,891.83.

Q. Inventory? A. That is correct.

Q. Accounts receivable? A. \$45,650.56.

Q. A-100? A. \$56,650.68.

Q. Adjustment of \$11,000? A. Yes.

Q. Where did you get these figures?

A. I don't know.

Q. Did you get these figures from Mr. Erickson?

A. Well, Mr. Erickson never prepared any of these. I prepared these.

Q. Did he give you the information that went into your accounts receivable?

A. On this particular one, that comes from the ledger of the company. This is the accounts receivable on the ledger.

Q. However, he gives you the information from which you make your accounts receivable into your ledger, [4600] does he not? A. That is right.

Q. So that you made the adjustment on your ledger and on your work sheet of \$11,000?

A. Yes, for some purpose.

Q. Did you tell Mr. Erickson then that you made this adjustment? A. No, I did not.

Q. Would it be necessary for him to have to make any adjustment in his books after you adjusted yours?

A. His book shows the same as my ledger, as far as I know.

Q. And which figure is that?

(Testimony of L. Hicks Taylor.)

A. \$56,650.68.

Q. That adjustment is for what reason?

A. You are handing me a sheet that is quite foreign from anything connected with it, so that I can't tell you what the purpose of this was for. There was some reason for it.

Q. Depreciation reserve is what on these two?

A. It shows on A-99 as \$54,195.80.

Q. And on A-100? A. \$62,938.77.

Q. An adjustment of \$8,000? A. Yes.

Q. And routes?

A. Routes show \$9,514.55 on Defendants' Exhibit A-100; A-99, routes on A-99, \$28,552.02.

Q. And that was an adjustment of \$19,000?

A. That was to strike a market value of routes.

Q. That was a market value, and I think you said you got that figure from Mr. Forster?

A. He would be the only one that could give me that figure.

Q. He made that appraisal, I believe you stated?

A. He must have, if it is here.

Q. And you discussed both A-99 and A-100 with Mr. Forster?

A. It is my recollection I did, yes.

Q. And milk accounts payable on A-99?

A. \$11,188.17.

Q. And on A-100? A. \$9,616.53.

Q. And notes payable, A-99?

A. \$12,709.20.

Q. A-100? A. \$4,825.90.

Q. An eight thousand dollar adjustment?

(Testimony of L. Hicks Taylor.)

A. Yes.

Q. Did you discuss these figures with Mr. Forster? [4602]

A. You mean the details of them?

Q. Yes.

A. Well, I don't know that we went into detail, but I know that I discussed these two statements with him generally.

Q. Cash was what? A. \$2,406.42.

Q. And A-100? A. \$4,797.86.

Q. Which statement was correct?

A. This statement, and this statement. They are both correct.

Q. Both correct?

Then, similarly, with A-65 and A-95?

A. That is correct.

Q. I believe you stated they were prepared, or the difference between them was, because one would be prepared for the bank for loan purposes and the other would be prepared at the end of your business? A. Correct.

Q. And you discussed them all with Mr. Forster?

A. It is my recollection that I did, yes.

Q. And you discussed them, I believe you stated, with the bank, is that correct?

A. I believe so, yes. [4603]

Q. Which banks are you referring to now that you discussed these with?

A. The bank at Issaquah.

Q. The bank at Stanwood?

(Testimony of L. Hicks Taylor.)

A. I don't recollect talking to Mr. Bud Hall at Stanwood.

Q. A-95 was submitted to Stanwood, wasn't it?

A. Well, it must have been, because I have marked First National Bank of Stanwood to show an exact copy of what was given to them.

Q. Did you explain your adjustments then to the man at the Bank of Stanwood, Mr. Bud Hall?

A. That I do not remember. I am quite sure I must have.

Q. Did he understand you were adjusting these figures from these statements you prepared at the end of the year from the one he would receive from you?

A. If we contacted Mr. Hall at Stanwood, I have written right here, right on the balance sheet, that was made for the Issaquah Creamery, from the books and I show right here, so the whole world can see it, "The exact figures that were shown to Mr. Hall."

Q. Where is that? Where is that, please?

A. What is that?

Q. Where are those figures that the whole world [4604] can see?

A. Right here on the statement that applies to our income tax return.

Q. I see. Did you also submit these statements to the Peoples National Bank, main branch?

A. That I don't remember. I don't have it here.

Q. I believe you stated you were audited by the Tax Division of the Government eight times, and

(Testimony of L. Hicks Taylor.)

they found no deficiencies in the thirties, is that correct?

A. I do not believe I made such a statement.

Q. Were the books and records of Issaquah audited by the Internal Revenue during that period?

A. I have recollection of an audit made in 1935 or '36 by an Internal Revenue Agent.

Q. Did you show both of your statements to the Internal Revenue Agent when he audited your books?

A. It is my recollection that I laid these on his desk for him to see, and showed him this, and if I remember right, his remark was he didn't care anything about the credit. He wanted to know what the book showed and what the income tax returns showed.

Q. So that he thought if you were showing a loss of \$1.93 and a profit on another statement he said he didn't care? [4605]

A. He did not care how we handled our credit picture at all. He wanted to know the facts for the income tax, and he checked them out.

Q. Did you explain the difference in your depreciation percentages; that the one you were using for the Internal Revenue was not fair and you used a fair one for your credit?

Mr. LeSourd: Object to the form of the question.

The Court: Objection sustained.

Q. (By Mr. Obenour): Did you state that the



(Testimony of L. Hicks Taylor.)

depreciation rate that you used for your Internal Revenue computations was not fair?

Mr. LeSourd: Object to the form of the question.

The Court: Objection sustained.

Q. (By Mr. Obenour): It is my understanding, Mr. Taylor, that you testified that the rate you used for the Internal Revenue computations, or for your computations at the end of the year, was not a fair figure; is that a correct understanding of your testimony?

A. No, it is not. I used the depreciation studies that show in the regulations in the working of the Income [4606] Tax Return.

Q. But the different depreciation, as used for your credit, is that what—more true or fair?

A. It is an appraisal.

Q. It is an appraisal; you explained the difference in the way you figured Mr. Forster's salary to the Internal Revenue agents?

A. As I remember it, he looked at this, if I remember correctly. There is nothing—it is right there on that sheet——

Q. (Interposing) Did you explain it to him?

A. I probably did. I don't just remember; that is a long time back.

Q. I believe you stated these were all done at the request of the bank because they were critical times; is that your statement?

A. Well, you place the bank—I am going to answer it "no." To place the bank in that position is not hardly fair. They never asked me to give them

(Testimony of L. Hicks Taylor.)

anything false, and they knew exactly what this was that we were giving them.

Q. It is my understanding of your testimony that you stated you were requested by the bank to make these adjustments, and made these adjustments in the presence of the bank officials; is that a correct understanding [4607] of your testimony?

A. I would say we showed the bankers what we had done.

Q. Then you were not making these adjustments at the Bank?

A. We probably discussed them before I completed the statements.

Q. But you did explain to the bank in each instance the difference in your adjustments from the computations you made regularly at the end of business and the computations you submitted to him for the picture of the business?

A. It is my recollection that they were discussed with them.

Q. And Mr. Forster was present in these discussions?

A. Well, I rather think so. It is my recollection that he was always present.

Q. And the purpose of this was to enable the bank to make loans during these critical times to Mr. Forster?

A. That was the principle, yes.

Q. It was a critical time for Mr. Forster, I believe you stated?

A. Yes, it was quite a critical time.

(Testimony of L. Hicks Taylor.)

Q. And the attempt was then to have papers to show [4608] the Bank Examiners—for the banks to show the Bank Examiners, to support the loans they would make to Mr. Forster; is that correct?

A. Well, I would assume that is the purpose.

Q. And would the Bank Examiner understand the difference in your adjustments?

Mr. LeSourd: I object to that.

The Court: Objection sustained.

Q. (By Mr. Obenour): I believe you stated nobody was hurt by this?

A. I believe the businesses continued to run and operate.

Q. Mr. Forster's businesses? A. Yes.

Q. And Mr. Forster benefited in each instance from these adjustments, is that correct?

A. Oh, when you—I will say “yes” to the question. When you deal with a bank, you don't say that anybody benefits. You are trying to accomplish some purpose.

Q. Well, Mr. Forster succeeded in what he wanted, then, in any event; didn't he?

A. It worked out satisfactory, yes.

Q. He got his loan in each instance?

A. Yes. [4609]

Q. During the critical times that enabled him to stay in business?

A. Yes, that is correct.

Q. Now, A-109 here shows a series of loans you made to Mr. Forster; do you recall those?

A. Yes, I recall them.

(Testimony of L. Hicks Taylor.)

Q. Which statement did you use for the basis of your loans to Mr. Forster, Mr. Taylor, the ones for the bank or the ones you prepared at the end of the business?

A. I guess you gave me some notes that were not——

Q. (Interposing) I am sorry. You recall the notes? For instance, which statements did you depend on for making those loans, Mr. Taylor?

A. The ones I made myself.

Q. Now, you continued to make these financial statements to the various banks through 1950, didn't you, Mr. Taylor?      A. Yes.

Q. And they were in each instance given to the bank in order to secure credit for Mr. Forster in his enterprises?

A. Yes, that is correct.

Q. Or to support credit already extended?

A. Yes. [4610]

Q. I believe the evidence here, the earliest one, shows is 1941 that we have; December 31st,—July 31, 1941, submitted to the National Bank—rather, Peoples National Bank, July 31, 1941, and you prepared them right on through to the Peoples Bank, clear through 1950?

A. Yes, as I remember.

Q. And these were done at the Bank's request?

A. Usually the bank's request, yes.

Q. And you discussed them with Mr. Forster?

A. Well, it is my recollection that we went over the statement.

(Testimony of L. Hicks Taylor.)

Q. You, apparently, according—this 252 is your work sheet balance and financial statement for February 28, 1948, is that correct? A. Yes.

Q. You continued to adjust these statements you submitted to the Peoples Bank in the '40s as you did for the critical times in the '30s?

A. No, not—

Q. (Interposing) Did you adjust your figures for the financial—for any of these financial statements in the '40s, exhibits 121 through 128?

A. No, not that I recollect any. Mr. Forster's financial position was fairly strong, so it was not [4611] necessary, not necessary to bring in appraisals of routes as much so at that time as it was in the critical period.

Q. Not being critical, and Mr. Forster's position then being more sound, you then used the figures from your books; is that true?

A. As a whole, yes.

Q. This 252, did you show that to Mr. Forster before you prepared the typewritten copy?

A. This was not a submitted financial statement from the books. I think I went to great lengths explaining the purpose of this particular statement in my testimony.

Q. But you did explain it to Mr. Forster before a typewritten copy was prepared?

A. It is my recollection that we went over it, yes.

Q. Calling your attention to this U. S. Bonds, the entry at the bottom of the first group, U. S.



(Testimony of L. Hicks Taylor.)

Bonds has been drawn—a line through it, and an arrow up to cash where U. S. Bonds was put in, and then the word “Look”. Who wrote that?

A. A stenographer in my office did that.

Q. The stenographer made that but you discussed it in the form that it is now with Mr. Forster, is that [4612] correct?

A. Yes, as I recollect.

Q. And the cash showed 293? A. Yes.

Q. \$293,000?

A. My testimony shows how that figure was arrived at.

Q. You stated also, I think, that you had already reached a tentative net worth of \$755,000 before you had been contacted secretly by a bank officer; is that a true understanding of your testimony?

A. Yes, a bank official called me, and talked to me about cash position.

Q. Secretly; what was the reason you already had a tentative net worth established?

A. Because a financial statement had been prepared, the original financial statement, by looking at this from my recollection, showed a cash balance of \$93,848.11, and for credit analysis—anticipation statement, I will call this—they wanted to know what and how soon Mr. Forster could liquidate loans if a crisis came.

Q. Then this tentative net worth statement that you had prepared before you were contacted by the

(Testimony of L. Hicks Taylor.)

bank was not the statement you submitted finally to the bank, is that correct? [4613]

A. They—while I don't see it here, they had the original statement, as well as this, as I remember.

Q. Didn't you say you had already reached a tentative net worth before you were contacted by the bank?

A. Well, if I did, tentative must have slipped in.

Q. Tentative slipped in; I think you stated that you were contacted secretly by the bank official to find out what you could have for quick liquidation of Mr. Forster's interests, is that correct?

A. Mr. Forster had very heavy loans at the bank at that time.

Q. Now, this—

Mr. LeSourd: (Interposing) Let him finish.

The Witness: Let me finish, will you, please?

Mr. Obenour: Pardon.

A. (Continuing) As I remember, a statement was submitted showing \$705,000. I might be wrong, —or \$755,000, one or the other, of net worth. Attached to this, as I remember, was the statements of each of these firms; the Issaquah Creamery net worth, Apex Farms net worth, Finstad and Utgard net worth, Puyallup Creamery, Renton Ice and Ice Cream. This statement was made as a valuation of Mr. Forster's net worth in his [4614] enterprises. They showed only a cash balance of ninety-three thousand dollars, and they felt that in quick liquidation, that wouldn't go very far. The credit man was trying to analyze the cash position out of all these

(Testimony of L. Hicks Taylor.)

enterprises into a one cash position. He thought we should take all the companies and show all the cash in one lump sum, and all the accounts receivable, but Mr. Forster did not own all of these companies, so it was necessary to show them on a net worth basis.

The credit man apparently wanted to see what could be developed from a liquidation standpoint, so I took the various statements in conjunction with him, I believe. Maybe I went to my office and did it. I am not sure which. But, we developed how much cash we could obtain in, say, a period of fifteen days, determined that we could accomplish, by a cash position from accounts receivable, the recovery of \$100,000.

So, we moved that into the cash position for anticipation. We reduced the accounts receivable by \$100—\$100,000—to show that they had been moved into an anticipation position.

We then took the statements of the various enterprises, analyzed their cash position, accounts receivable,—to determine how much cash could be [4615] immediately recovered. We anticipated \$100,000 could be moved up into the cash position.

Mr. Forster not being the owner of all these companies, became a creditor to them if such a transaction were accomplished.

So, then, accounts payable were raised \$100,000. In that calculation, the net worth remained the same. That was the purpose of this statement, in

(Testimony of L. Hicks Taylor.)

anticipation of how a loan of any size could be liquidated.

Mr. Obenour: Will the reporter read the question, please?

The Court: Mr. Reporter, read the question, please.

(Whereupon, the following was read by the reporter:)

“Q. I think you stated that you were contacted secretly by the bank official to find out what you could have for quick liquidation of Mr. Forster’s interests, is that correct?”

A. (Continuing) I have so answered the question.

Q. (By Mr. Obenour): Thank you.

Did you make these adjustments in the presence of the bank official who secretly contacted you?

A. That I cannot say definitely. We discussed them.

Q. Where did you make these adjustments?

A. Probably worked them out in my office if all the work sheets were around, it would be very simple to trace them through.

Q. And the reason for this adjustment was because, would you say, this was a critical time for Mr. Forster?

A. No, it was not a critical time. It was just a survey of the bank to see what his readily liquidated position was.

It wasn’t any reflection on Mr. Forster.

(Testimony of L. Hicks Taylor.)

Q. I see; it was because of the number of loans he had out?

A. He had quite a large loan at that time. I don't remember what it was.

Q. But what the bank was interested in, and the reason you were contacted, they wanted to know how much cash Mr. Forster had, is that correct?

A. How much quick cash could be developed.

Q. So then you started with a ninety-three thousand dollar figure?

A. That was the balance, as I remember it, that showed on the Alpine Dairy bank account. [4617]

Q. Handing you Exhibit 272, what is the total of the cash in the bank as of February 28, 1948?

A. Apparently there is some other adjustment made to the account there. It only showed 19,000 in the two accounts.

Q. Where is your——

A. (Interposing) February.

Q. February 28th, \$26,725.65 for February 28th?

A. Yes; I was looking at the loan figure there. I even tripped myself up. The balance of cash on hand in the ledger shows \$93,848.11, identical to the figure that shows on this statement of Exhibit 252.

Q. With the exception that the 252, "2" raised the \$93,000 figure to \$293,000 cash?

A. Correct.

Q. Now, you stated that Mr. Forster was attempting to borrow some money to build Alpine Ice Cream plant; was that true?



(Testimony of L. Hicks Taylor.)

A. Well, it was my recollection that that was about the time.

Q. And how much was the loan that they wanted to make?

A. Well, if I remember correctly, two hundred thousand dollars was the request.

Q. Two hundred thousand; and how much did he finally make? [4618]

A. Well, he didn't make any at the time.

Q. He didn't make any at the time?

A. As I remember it.

Q. So, he wanted to make this loan, and in accordance with this request for the loan, you prepared this figure of \$293,000—\$293,000 which was submitted to the bank?

A. Well, I don't believe that this had any particular connection with the two hundred thousand dollars, only just information that the credit man wanted.

Q. Was that the purpose of the statement?

A. Well, not what I have prepared here. This was after the request. This was another.

As I remember it, it was later.

Q. Why was that exhibit submitted to the bank?

A. As I have stated.

Q. Then it was submitted as a result of the request for a loan that Mr. Forster was attempting to get?

A. Oh, yes; you might say that it was the follow-up of that.

Q. And the one thing that they were concerned

(Testimony of L. Hicks Taylor.)

with was cash on quick liquidation of Mr. Forster's interests? [4619]      A. Yes.

Q. Now, that was the first time in any of these statements to the Peoples Bank that you had to make a showing of cash, is that correct?

A. Yes, and I believe the only time, if I remember.

Q. The only time; and all the other times in these financial statements from 1941 on through 1950, you simply showed the book value of cash of Alpine Dairy, is that correct?

A. That is my recollection, yes.

Q. So that is the only account you showed?

A. As I remember.

Q. And the one instance, then, that the bank demanded a figure for cash on quick liquidation was this time on February, 1948, when you showed \$293,000?

A. It was the only time that I ever contacted the credit department separately, as I remember.

Q. Did they contact you, or did you contact them?      A. They 'phoned me.

Q. Did Mr. Forster understand what you were doing with this \$293,000 figure?

A. Well, I presume that he did. I think that I went over it with him. [4620]

Q. And Exhibit 123, is that the typewritten copy of Exhibit 252?

A. Yes, I believe it is.

Q. Now, they are exactly the same, the cash figure is 293?      A. Yes.

(Testimony of L. Hicks Taylor.)

Q. And the 293,000 figure was discussed with Mr. Forster?

A. It is my recollection that it was.

Q. Did he understand what the bank was concerned with was cash?

Mr. Griffin: I object.

The Court: Mr. Obenour, I don't think you should ask in these questions, "Did Mr. Forster understand?"

Mr. Obenour: I will rephrase them. I am sorry.

Q. (By Mr. Obenour continuing): Did Mr. Forster give any indication that he questioned the figure 293—293,000?

A. No, I don't believe so.

Q. Did you ask Mr. Forster at this time how much cash he had?

A. Well, this was taken from the various statements that show on this return.

Q. The various statements?

A. Yes, from Issaquah Creamery, Apex Farms, to [4621] arrive at a figure.

Q. The problem that the bank was interested in was how much cash Mr. Forster had, wasn't it?

A. A credit man—I will say "yes" to the question, for liquidation purposes, but I would like to say this: a credit man has a different viewpoint of what a financial statement is than the average person, and to satisfy the thinking, this statement was drawn up.

Q. Is a credit man interested in cash in savings account?

(Testimony of L. Hicks Taylor.)

A. I don't know about that, what they do. This credit man was interested in the loans of Mr. Forster.

Q. But he was interested in cash, wasn't he, and the cash in the savings account at the bank is cash?

A. Yes.

Q. Yes; and did you ask Mr. Forster how much cash he had in the savings account?

A. I did not.

Q. At the time?           A. No.

Q. You knew that the bank was interested in cash?

A. This was not anything to do with anything but [4622] the statement that I presented to the bank including the various companies that Mr. Forster was interested in.

Q. And you reached the figure \$293,000 by your estimate of quick liquidation of accounts receivable of Alpine Dairy for \$100,000 which reduced Alpine's account \$100,000 and moved \$100,000 into cash, is that it?

A. Yes, that is correct.

Q. And you calculated what your estimate would be of the cash you could raise similarly in the other companies in which Mr. Forster had an interest, and reached another \$100,000?

A. Yes.

Q. And the net result showed a figure of \$293,000 cash for financial statement you submitted to the bank in February, 1948?

A. That is correct.

(Testimony of L. Hicks Taylor.)

Q. Did you explain these adjustments to the bank officials at the time you submitted this exhibit, 123?

Mr. LeSourd: If your Honor please, we have gone over and over this.

The Court: I think the last question as to explanation is not repetitious. The rest has been gone over many times. [4623]

A. Exhibit 123 was, as far as I know, handed to Mr. Strack and Mr. Donaldson, and signed by Mr. Hans Forster.

Mr. Obenour: I will ask that the question be read, and the witness instructed to answer, if the Court please.

The Court: I won't read the question. I think it was long, but I will ask the question:

The question was, did you explain this procedure you went through to anyone in the bank?

The Witness: It is my recollection that I did to both of the officers, yes.

Q. (By Mr. Obenour): So that this is another adjusted statement then that you prepared to give to the bank in order for Mr. Forster to receive a loan?

A. Mr. Forster did not receive a loan on the strength of this statement.

Q. But he did receive a loan, he did receive a loan?

A. I have no evidence of it, no.

Q. Handing you Plaintiff's Exhibit 98 which has been identified as the liability ledger, Hans



(Testimony of L. Hicks Taylor.)

Forster, Issaquah, Washington, to the Peoples National Bank, and what is the liabilities of Mr. Forster in [4624] February, 1948?

A. I don't see anything here, February, 1948.

Q. Then Peoples Bank did not have any loans out to Mr. Forster as to that personal unsecured loans as of the date February 28, 1948, is that correct?

There is no record of the loan from Peoples Bank to Mr. Forster of any amount as of the date February 28, 1948?

A. I don't see anything on here.

Q. Handing you Plaintiff's Exhibit 100, which is the liability ledger, direct, secured, for Alpine Dairy, and ask you if there is a record of any loans from Peoples Bank to Mr. Forster, February 28, 1948?

A. No.

Q. Handing you Exhibit 101, direct unsecured for Alpine Ice Cream Company, and ask if there is a loan on February 28, 1948?

A. No. Do you have any other loan records of companies Mr. Forster is interested in?

Q. We do not.

A. Then you had better get the balance.

Q. It was personal loans we were discussing of Mr. Forster.

A. Mr. Forster was endorser on a number of loans. It takes a complete record to answer the question you are [4625] presenting.

Q. Peoples Bank wanted to know about cash. Did they discuss with you the accounts that Mr.

(Testimony of L. Hicks Taylor.)

Forster personally had in the Peoples Bank as of February 28, 1948?

A. Personal accounts?

Q. Yes.

A. What are you referring to?

Q. His personal savings account that he had at the Peoples Bank.

A. No, he did not.

Q. Now, that would be information that the Peoples Bank should have, wouldn't it?

A. They could have it; they should have it.

Q. Did they discuss with you the Alpine Bank account in the bank at that time?

A. I don't know if it went into such minute detail.

Q. They were—you were discussing cash?

A. Most assuredly.

Q. How about the account for Alpine Ice Cream that the Peoples Bank had at that time; did you discuss that account?

A. The Alpine Ice Cream—Alpine Ice Cream account?

Q. Yes. [4626]

A. You have no record of any Alpine Ice Cream account in this set-up.

Q. So, when you were discussing cash with the bank officials, there was no discussion of bank accounts but simply a statement that raises an account, showing over ninety-three thousand dollars, two hundred thousand dollars by this adjustment; is that the final testimony you are making?

(Testimony of L. Hicks Taylor.)

A. Yes, this is an anticipation statement, is what it is.

Q. Do you know whether or not Mr. Forster had \$293,000 in cash?

Mr. LeSourd: Object to that, your Honor.

The Court: Objection sustained.

Q. (By Mr. Obenour): Did you know whether or not—did you testify, I believe, that possibly he might have had it?

Mr. LeSourd: Object to that.

The Court: Are you speaking now of this statement?

Mr. Obenour: Yes, sir, the item "cash". He testified on direct, I believe, if the Court please, that he possibly could have had it, but didn't know if he did. [4627]

The Court: I will sustain the objection.

Q. (By Mr. Obenour continuing): Was that item to your knowledge of \$293,000 true?

A. No, it was an estimate.

Q. It was an estimate?

A. The ninety-three thousand appeared on our books. The two hundred thousand dollars, as I have explained, was an estimate.

Q. Were you making a false statement to the bank?

A. Mr. Obenour, that was not the purpose of this statement in any way, shape or form.

Q. I hand you Plaintiff's Exhibit 55, which is a savings record of Hans and Evelyn Forster, savings account 198, and would you turn to the entry there

(Testimony of L. Hicks Taylor.)

of February 28, 1948, and read what is the amount of cash on deposit at that time? I believe the next entry would be 3-3-48 where an addition was made.

A. That is about \$118,000 in this.

Q. Would you please write down that figure \$118,496.32? A. Yes.

Q. And, handing you Plaintiff's Exhibit 89 for the entry as of February 3, 1948, what is that figure? [4628]

Mr. Patten: What is that?

Mr. Obenour: A record of the Peoples National Bank, savings account of Hans Forster.

A. It is \$60,687.68.

Mr. Obenour: May I ask that this be marked please?

The Clerk: Plaintiff's Exhibit 289 marked for identification.

(Plaintiff's Exhibit 289 marked for identification.)

Mr. Obenour: I just asked that this be identified first, if the Court please.

Q. (By Mr. Obenour): Can you identify that, Mr. Taylor, Exhibit 289, please?

A. Well, this purports to be the Alpine Ice Cream Company bank statement.

Q. Certified true copy by Mr. Hansen of that bank? A. It could be, yes.

Mr. Obenour: We would offer it, if the Court please.

Mr. LeSourd: I have a question.

Mr. Taylor, have you ever seen this before?

(Testimony of L. Hicks Taylor.)

The Witness: That is the first time I have [4629] ever seen the statement of any kind.

Mr. LeSourd: We object to it as not certified, your Honor, and also irrelevant and immaterial and beyond the scope of the direct examination.

Mr. Obenour: We would ask it be admitted without necessity of calling the proper witnesses to have it properly introduced, if the Court please.

The Court: I assume that is your desire.

Mr. Obenour: Yes, sir.

The Court: If there is objection, the Court will sustain the objection.

Mr. Obenour: Very well.

The Court: We will take a recess.

Members of the Jury: the Court advises you, or calls your attention to the admonition given on similar occasions and asks that you heed it on this occasion.

(Whereupon, the Jury retired from the courtroom.)

(Whereupon, at 11:03 o'clock a.m. a recess was had in the within-entitled and numbered cause until 11:16 o'clock a.m. April 23, 1954, at which time, Counsel and Defendants heretofore noted being present, the following proceedings were had, to-wit:)

The Court: You may call the Jury. [4630]

(Whereupon, the Jury was returned to the courtroom.)

The Court: You may be seated.



(Testimony of L. Hicks Taylor.)

It is stipulated that the Jury and all Defendants are present in the courtroom?

Mr. Griffin: Yes, your Honor.

Mr. Moriarty: Yes, your Honor.

The Court: You may proceed, Mr. Obenour.

Mr. Obenour: Yes, sir.

Would you stipulate, Mr. LeSourd, as to the amount on deposit on March 1, 1948, for Alpine Ice Cream to be \$19,956.91?

Mr. LeSourd: Yes, I will stipulate that that is true, but also object that it is completely irrelevant in any way to this matter, beyond the scope of direct examination and certainly no indication here that this witness knew anything about it.

The Court: As I understand, you would stipulate that that is the amount but if the matter is used in a question, you would object to the materiality of the question, is that it?

Mr. LeSourd: Yes, on Counsel's statement that this is taken from the bank as a true statement of what the account was.

The Court: The stipulation may show, and the objection [4631] may show to the materiality and relevancy of the issue and the Court would overrule that objection.

Mr. LeSourd: Thank you.

Mr. Obenour: Thank you, Mr. LeSourd.

Mr. Moriarty: What was the amount?

Mr. Obenour: \$19,956.91.

Q. (By Mr. Obenour): Would you add \$19,956.91, please, to those other two figures?

(Testimony of L. Hicks Taylor.)

A. Yes.

Q. This was the Alpine Ice Cream account and the Alpine Ice Cream Company was owned outright by Mr. Forster, is that correct?

A. It must be.

Q. Would you add——

A. (Interposing) I have them added, \$199,-141.91.

Q. That is within \$659 of the \$200,000 adjustment to cash you made to the financial statement you made to the bank in February, 1948, is that correct? A. It is not.

Q. What is the amount?

A. I have explained this about five times.

Q. Pardon me.

A. You are asking me about 191. All right. Let's [4632] apply it. You have got a net worth of \$755,000.

Let's add 199. That would give you a net worth of \$955,000.

Mr. Obenour: I ask that the question be read, if the Court please.

The Court: Mr. Reporter, read the question.

(Whereupon, the following was read by the reporter:)

“What is the amount?”

Mr. Obenour: The prior question.

The Court: The prior question, Mr. Reporter.

(Whereupon, the following was read by the reporter:)

“Q. That is within \$659 of the \$200,000 adjust-

(Testimony of L. Hicks Taylor.)

ment to cash you made to the financial statement you made to the bank in February, 1948, is that correct?"      A. No.

The Court: What amount?

Mr. Obenour: The difference between the figures he added and the \$200,000 adjustment.

Mr. LeSourd: I will object to that, your Honor, as assuming that these figures have anything to do with the adjustment.

The Court: It is a matter of calculation. [4633]  
The Court will sustain the objection.

Q. (By Mr. Obenour): Your figure then of \$199,300——

A. (Interposing) \$199,141.91 taken from these exhibits here.

Q. And then to that would you add \$93,848.11 which you stated and testified earlier was on the Alpine books for cash and cash in banks as of that date.      A. You want that total?

Q. Please.      A. \$292,990.02.

Q. Now, in fact, Mr. Forster had bank accounts totalling \$292,000 as of the date of February 28, 1948; that is, accounts of his own, is that not correct?

A. That is what these schedules show, yes.

Q. But the figure of \$293,000, you say, you explained to the bank was merely reached by adjustments of quick liquidation?

A. That is correct.

Q. So that when you were discussing cash of Mr. Forster for the purpose of making a loan you

(Testimony of L. Hicks Taylor.)

explained the cash by an adjustment and never revealed the fact to the bank that he actually had \$292,000 cash, is that correct? [4634]

Mr. LeSourd: Object to the question, your Honor, as indicating—assuming that this witness knew about these bank accounts.

The Court: Objection sustained.

Q. (By Mr. Obenour): At the time this \$293,000 figure was given to the bank, you explained it as being adjustments and to your knowledge the bank was never advised that in fact Mr. Forster had that amount in cash, is that correct?

A. I do not know.

Q. What is the amount of cash shown on the statement of September, 1945, Exhibit 125, please?

A. September, 1945—

Mr. LeSourd: (Interposing) Are you speaking of cash of Alpine Dairy?

Mr. Obenour: Cash shown on financial statement given to Peoples National Bank, September, 1945.

A. (Continuing) There are two figures, one marked "cash" and one marked "bank."

Q. (By Mr. Obenour): What are the totals?

A. It would be \$50,157.09.

Q. And that shows an increase of \$240,000, approximately, of cash and cash in banks in a year and a half? [4635]

Mr. LeSourd: Object to the question, your Honor, as assuming there is any relationship between these two figures.

(Testimony of L. Hicks Taylor.)

The Court: The Court will sustain the objection.

Mr. LeSourd: Thank you.

Q. (By Mr. Obenour continuing): During this period, I believe you testified, Mr. Taylor, that Mr. Forster was drawing only \$18,000 a year from 1945 to 1949?

A. Yes, that is my recollection.

Q. Isn't it true, Mr. Taylor, that at no time did you or Mr. Forster give a statement, oral or written, to any bank official that showed that in fact, Mr. Forster had any accumulation of cash as in fact he had from that account of \$292,000?

Mr. Griffin: May that question be read, your Honor?

The Court: Mr. Reporter, read the question, please.

(Whereupon, preceding question was read by the reporter.)

Mr. LeSourd: I will object to that, your Honor, as calling for a statement by this witness as to [4636] what Mr. Forster did.

Mr. Obenour: To his knowledge.

Mr. LeSourd: To his knowledge, I have no objection.

A. I have no knowledge of it.

Q. (By Mr. Obenour): Isn't it a fact, Mr. Taylor, that in all these years, you gave no statement to anyone that would show the true accumulation of cash of Mr. Forster in his savings accounts because his accumulation of cash, such as this, so far as in



(Testimony of L. Hicks Taylor.)

excess of his salary, was one thing you could not explain in an income tax prosecution?

Mr. LeSourd: Objection, your Honor.

The Court: Objection sustained.

Q. (By Mr. Obenour): I believe, is it not true, Mr. Taylor, that an accumulation of cash in excess of the total salary drawn as indicated on a tax return could not be explained to the Internal Revenue Bureau?

Mr. LeSourd: Objected to as argumentative and hypothetical. I object to the form of the question.

The Court: Objection sustained. [4637]

Q. (By Mr. Obenour): Now, besides these amended financial statements, I believe you have indicated there were some altered records of the other corporations. Is that true, Mr. Taylor?

Mr. Obenour: Can I have A-44 and 212?

Mr. LeSourd: Object to that.

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.)

Mr. LeSourd: Object to that as assuming that the testimony is as to altered records.

Mr. Obenour: There has been testimony, your Honor.

The Court: Pardon?

Mr. Obenour: There has been testimony of altered records in the examination by Mr. Griffin.

The Court: The Court will sustain the objection.

(Testimony of L. Hicks Taylor.)

Mr. Obenour: Can I have 212, 212-A and A-31, A-44.

212, 212-A, A-31.

(Whereupon, exhibits were handed to Mr. Obenour by the Clerk.)

Q. (By Mr. Obenour): Handing you Exhibit A-41, which has been [4638] identified as the statements given to you by Mrs. Simonson of Finstad and Utgard in monthly statements, it is my understanding that you testified under examination of Mr. Griffin, that in December, 1947, accounts payable were raised \$10,000; is that correct?

Mr. LeSourd: If your Honor please, may it be understood that our continuing objection goes to this matter as beyond the scope of direct and irrelevant and immaterial?

The Court: Objection may show. Objection overruled. Do you have the question in mind, Mr. Taylor?

The Witness: Yes.

A. The accounts payable were increased to cover some bonus that they owed, yes.

Q. (By Mr. Obenour): Mr. Egeness did that, is that correct? A. Yes.

Q. Now, inventory was changed at the same time, December, 1947; did Mr. Egeness do that?

A. Yes.

Q. And the inventory in 1946, and 1948, was changed; did Mr. Egeness do that, too?

A. Yes.

Q. Did you discuss these alterations of the fig-

(Testimony of L. Hicks Taylor.)

ures given to you by Mr. Egeness with Mr. Forster? [4639]

Mr. LeSourd: Object to the characterization "alterations."

The Court: Haven't you used the word "changed"?

Q. (By Mr. Obenour continuing): Did you discuss the changes made by Mr. Egeness with Mr. Forster?

A. You mean, did I do it personally?

Q. Did you discuss with Mr. Forster the changes made by Mr. Egeness?

A. It is my recollection that when these figures were given to me, Mr. Egeness and Mr. Forster and I were together.

Q. So that Mr. Forster knew at the same time that you did, that these figures had been changed by Mr. Egeness?

Mr. Griffin: Object to the form.

The Court: Objection sustained.

Q. (By Mr. Obenour continuing): But he was present, is that your recollection?

A. He was present.

Q. Handing you 212 and 212-A, the books maintained by Mr. Schneider at Renton, it is my understanding of your testimony there that those changes made in the [4640] accounts payable for July, 1946, were made by Mr. Schneider; is that correct?

Mr. LeSourd: I object to that as assuming evidence not in issue. The testimony was that he didn't know who made the changes.

(Testimony of L. Hicks Taylor.)

The Court: Objection sustained.

Q. (By Mr. Obenour continuing): There are changes in the accounts payable for July, 1946, in the accounts payable book of Renton Ice and Ice Cream?

Mr. Griffin: I object to the question, and only for this reason, if the Court please:

In spite of our case in chief, and calling Mr. Schneider, they cross-examined the witness in their chief cross-examination, and I don't believe they need to reiterate it again.

The Court: Was this some item not covered in your cross-examination?

Mr. Obenour: No, sir, but it was covered by Mr. Griffin and Mr. Schneider was down there and said it was some figures Mr. Taylor gave him.

The Court: Without going into it again, if you are going to some matters——

Mr. Obenour: (Interposing) Yes, sir.

The Court: (Continuing) ——that you think [4641] pertains to matters brought out by Mr. Griffin, the Court will overrule the objection.

What is the pending question?

Mr. Griffin: I may suggest, your Honor, again I don't mind the time, but I only cross-examined on the direct examination in regard to this witness, and the Government's case involving these particular books.

Mr. LeSourd: The matter has been covered twice now with this witness.

The Court: I am in agreement on that, but of

(Testimony of L. Hicks Taylor.)

course, I can't know what item might be sought by the Government on this cross-examination.

Mr. Griffin: All right; I will withdraw my objection that it has been covered.

The Court: If it is repetitious in any way, the Court will sustain the objection; or, do you have some matters that should be covered in the original cross? Now, do you wish to state the question, Mr. Obenour, or do you want the reporter to read it?

Mr. Obenour: May the reporter read it?

The Court: Mr. Reporter, read the question, please.

(Whereupon, preceding question was read by the reporter.) [4642]

Mr. LeSourd: Is that 1946, Mr. Obenour?

Mr. Obenour: Yes.

A. I don't see any.

Q. (By Mr. Obenour): Accounts payable were changed in July, 1947?

Mr. LeSourd: Well——

The Court: (Interposing) 1947, now?

Mr. Obenour: Yes, sir.

Mr. Griffin: The witness has testified, if the Court please, he is not familiar with that book, even.

Mr. Obenour: He testified, if the Court please, that certain figures were added to it by him.

The Court: He may answer.

A. I don't see any change.

Q. (By Mr. Obenour): You don't see any



(Testimony of L. Hicks Taylor.)

change; were the changes made in the inventory, Exhibit A-31?

Mr. LeSourd: What company are you talking about?

Q. (By Mr. Obenour continuing): Exhibit A-31, balance sheet of Issaquah Creamery; as I understand your testimony, the inventory was changed \$10,000 by Mr. Erickson; is that correct? [4643]

Mr. LeSourd: Is this the end of 1948 you are talking about?

Mr. Obenour: Yes, sir; A-31. ..

Mr. LeSourd: Object as repetitious, fully covered.

Mr. Keesling: We object to his statement about Mr. Erickson.

The Court: The Jury will disregard the statement of Counsel if it is not in accord with your recollection in all instances where counsel may propose to state what he conceives to be the evidence.

Mr. LeSourd: Mr. Keesling's objection is well taken. That was not his testimony.

The Court: I will strike the testimony—I mean, the comment of counsel upon your request.

Mr. Keesling: I move to strike.

The Court: The comment of counsel will be stricken and the jury will disregard it.

Now, we will proceed.

Q. (By Mr. Obenour): It is my understanding, referring now to 212, that in this entry for July, 1947, that these 1's that were added in front of

(Testimony of L. Hicks Taylor.)

these nine figures were not done by you, is that correct? A. That is correct. [4644]

Q. And was it your testimony as to who did these changes of those 1's and put the final total down there?

The Court: You had better restate that question, Mr. Obenour.

Q. (By Mr. Obenour continuing): And, to your knowledge, do you know who put the 1's there?

A. I do not.

Q. To your knowledge, do you know whose writing is that who made the total at the bottom there?

A. It looks like Mr. Schneider's.

Q. And these——

The Court: "There," is that——

Mr. Obenour: (Interposing) Yes, sir; I am pointing to—referring to Exhibit 212 for the——

The Court: (Interposing) Are you pointing to the end?

Mr. Obenour: Yes, sir; the end of July accounts payable for the year 1947, of Exhibit 212.

Q. (By Mr. Obenour continuing): And now, referring to the end of the accounts payable for July, 1946, and these figures down here of \$14,338, are those figures by you? Is that the correct testimony?

A. That is my figure, yes. [4645]

Q. And the changes from the eight thousand dollars figure to fourteen thousand was not done by you, is that your testimony?

A. That is right.

Mr. LeSourd: I will object. There is an eight

(Testimony of L. Hicks Taylor.)

thousand dollar figure total, and then some little pencil figure at the front of the month. I don't know what it is.

The Court: The Court will strike the question and answer.

Q. (By Mr. Obenour): Referring to A-31, what is the figure—it is my understanding that the inventory is lowered ten thousand dollars on the balance sheet from the figure supplied by Mr. Erickson; is that correct?

A. Mr. Obenour, will you give me the work sheet that goes with A-31, please?

Q. Is that your testimony? Is that your testimony on cross-examination?

Mr. LeSourd: Just a moment, Mr. Obenour. This matter was gone into, and the witness was given the work sheet and if you want him to go over it, I think you should give him the work sheet and go over it again.

The Court: What is the question, Mr. Reporter?

(Whereupon, preceding question in two parts was read by the reporter.)

Mr. Griffin: I don't see how he could answer that question.

The Court: I think you would have to reframe that, Mr. Obenour.

Mr. Obenour: Yes, sir.

Q. (By Mr. Obenour continuing): Was there a change in the figure of inventory that you used on the balance sheet from that supplied by Mr. Erickson?

A. Yes, there was a change.

(Testimony of L. Hicks Taylor.)

Q. And who made the change?

A. Who made the change?

Q. Yes, sir.

A. Well, I changed it on the work papers, yes.

Q. Did you discuss this change with Mr. Forster?

A. Any changes that were made of that type were discussed with Mr. Forster.

Q. Did you discuss the changes on the Renton books with Mr. Forster?

Mr. LeSourd: I objection to that, your Honor. He testified he didn't know about any change in the Renton books. There is no changes shown.

The Court: It is assuming something not in evidence, Mr. Obenour. [4647]

Mr. Obenour: All right, sir. I will withdraw the question.

Q. (By Mr. Obenour): And, referring to the Stephenson check, which was—rather, the entry in the journal of the duplication of the Stephenson account payable in the amount of approximately eighteen thousand dollars, are you familiar with that? A. I am not.

Mr. LeSourd: Just a moment. I will object to this as improper cross-examination.

Mr. Keesling: I join in the objection.

Mr. LeSourd: Not something gone into.

Mr. Obenour: I believe Mr. Griffin went into it. The journal entry, rather than the check.

Mr. Griffin: I never mentioned that either in the cross-examination.

(Testimony of L. Hicks Taylor.)

The Court: If you have the journal entry as an exhibit to which you can refer to——

Mr. Obenour: (Interposing) Yes, sir.

The Court: (Continuing) ——you might refer to it.

Mr. Obenour: 272, please. [4648]

Q. (By Mr. Obenour): Do you have the accounts payable portion, the accounts payable entry for December, 1949, for Issaquah Creamery?

Mr. LeSourd: This is Mr. Erickson's journal we are looking at, Mr. Obenour.

Mr. Obenour: 272.

Mr. Keesling: That is not it?

Mr. Obenour: Is that the wrong exhibit number? I am sorry.

Mr. LeSourd: You have it confused.

Mr. Obenour: 213.

(Whereupon, document was handed to the witness by Mr. Obenour.)

Q. (By Mr. Obenour): Will you find the entry for December, 1949? A. What is the entry?

Q. Accounts payable.

Mr. Keesling: May I inquire as to what item?

Mr. Obenour: Accounts payable, the entry of Stephenson.

Mr. Keesling: That is completely beyond the cross-examination.

The Court: I don't recall it, Mr. Obenour.

Mr. Obenour: I might be in error. It is my recollection it was asked. [4649]

Mr. Griffin: If the Court please, I advise your



(Testimony of L. Hicks Taylor.)

Honor I would go over my notes at night and continue into cross-examination. I did have at least a day's cross-examination, and this is one of the items I eliminated and never mentioned.

The Court: I have no memory of it.

Mr. Obenour: I am sorry. I will withdraw the reference.

Q. (By Mr. Obenour): This was an item of fifty-one thousand dollars that was changed in your work sheet for accounts payable in December, 1949; was that not correct? A. Yes.

Q. And who made the original change and gave it to you?

Mr. LeSourd: If your Honor please, we have been over this several times. Mr. Obenour was on the original cross-examination. I have no objection to going over it again, except it takes time, and it is repetitious.

The Court: Again, it has been gone over many times, and if the Government has some particular point they wish to bring out, as a result of the cross-examination of Mr. Griffin, it would be proper.

I am at a loss to know what it is, but you [4650] may proceed.

A. I answered it "yes."

Q. (By Mr. Obenour): And who made the change originally that gave the information to you?

A. The information was given to me by Mr. Erickson.

Q. Did he also give you the information about the milk drafts and inventory figures?

(Testimony of L. Hicks Taylor.)

A. Correct.

Q. And you stated that you changed your ledger because Mr. Forster had said that the profit was too high, and that you had left them with your statement that if they found any errors in their books, you would correct your ledger; is that correct?

A. That is correct.

Q. Now, you said you knew nothing wrong about these corrections at the time that you made them, the fifty-one thousand dollars accounts payable and milk draft and inventory changes?

A. Yes, that is correct.

Q. That you yourself found that there was fifty thousand dollars wrong in April, did you not, Mr. Taylor?

A. You are referring to the minus inventory, I [4651] presume.

Q. Yes, sir.

Mr. Obenour: Exhibit A-51, please, and A-120.

Q. (By Mr. Obenour continuing): You did find something wrong in April, the fifty thousand dollars, according to your testimony, is that correct?

A. I didn't say I found something wrong. I thought there might be something wrong.

Q. But you thought there was something wrong enough to make an adjustment of fifty thousand dollars, did you not?

A. I made a suggested change to call it to the attention of all interested.

Q. You did call it to the attention that something was wrong; did you ever find anything wrong

(Testimony of L. Hicks Taylor.)

in the amount of fifty thousand dollars in the books of Issaquah Creamery as of the first four months of 1949.      A. I did not check.

Q. You did not check; so that the adjustment that you made, contrary to the showing of what was made on your books, was done strictly because you thought something was wrong?

A. That is right, and it had absolutely nothing [4652] to do with income tax in any way, shape or form.

Q. And the minus inventory was your figure?

A. It was a calculation I made, yes.

Q. Did you ever receive a minus inventory figure from Mr. Erickson?      A. It is possible.

Q. Handing you Exhibit A-120, whose handwriting is this slip of Issaquah Creamery, with the inventory and the figures?

Mr. LeSourd: I object, your Honor. The exhibit is not in evidence.

Mr. Obenour: I am asking for identification, if the Court please, and we would again offer it.

Mr. Griffin: I had it identified, but did not offer it, if the Court please, as I recall.

The Court: Was it used at all?

Mr. Griffin: It wasn't used at all.

Mr. Keesling: It wasn't offered at all, your Honor. It is a 1950 item.

Mr. Obenour: March, 1950.

The Court: It is an item on March figures?

Mr. Obenour: Yes.

The Court: Objection sustained. They are not

(Testimony of L. Hicks Taylor.)

figures involved here, and I think one offer was made of a similar document. [4653]

Mr. Griffin: That is the reason I didn't offer this, because you sustained other similar objection.

Q. (By Mr. Obenour): Did you ever—you say you have never examined the books of Issaquah Creamery to support the final adjustment you made at the end of 1949?

A. I don't recollect ever looking at them.

Q. So that there have been no—you have never found the errors for either your fifty thousand dollar adjustment or the final adjustment of fifty-one thousand—sixty-one thousand dollars made at the end of the year?

A. Fifty-one thousand adjustment was made at the end of the year.

Q. So that you have never found any errors to substantiate that?

A. I have made no check of it, no.

Q. Of all these adjustments by Mr. Egeness, Mr. Erickson and Mr. Schneider, Mr. Forster was the only man who benefited from all of them; is that correct?

Mr. Griffin: Just a moment. May I hear that question read?

The Court: Mr. Reporter, read the question.

(Whereupon, preceding question was read by the reporter.) [4654]

Mr. Griffin: I object to the form.

The Court: Objection sustained.

(Testimony of L. Hicks Taylor.)

Q. (By Mr. Obenour): Did Mr. Forster benefit from the——

Mr. Griffin: (Interposing) I object to the form of that question. If this is a benefit, it is something new.

The Court: The Court will sustain the other objection.

This question isn't completed, but if it is asking this question as it was sustained as to benefit, the Court would sustain an objection to questions of that character.

Q. (By Mr. Obenour): Mr. Forster received additional income as a result of the changes made by Mr. Egeness at Finstad and Utgard, didn't he?

Mr. Griffin: We will object to the form of that question. There could be neither additional nor less income.

The Court: Well, I would overrule the objection.

Mr. LeSourd: It is a separate corporation.

The Witness: May I hear that? [4655]

The Court: Mr. Obenour, is this made as to other companies?

Mr. Obenour: Yes, sir; Finstad and Utgard. Finstad and Utgard, we have just discussed these alterations or changes, if the Court please.

The Court: Will you restate the question, Mr. Obenour?

Q. (By Mr. Obenour continuing): Mr. Forster owned Finstad and Utgard at the time the changes were made, is that not true? Changes made by Mr. Egeness that was just referred to?



(Testimony of L. Hicks Taylor.)

A. Yes, he owned it.

Q. And did he receive additional income as a result of this change?      A. The corporation.

Q. The corporation owned by Mr. Forster did receive additional income?

A. The corporation did, yes.

Q. And Mr. Forster received additional income as a result of the changes in the accounts payable by someone at Renton Ice and Ice Cream, is that not correct?

Mr. LeSourd: If the Court please, may our standing objection be considered to going to all of this? [4656]

Mr. Griffin: My objection is specific as to this question. Factually, it is not true, in the first place. In the second,—

The Court: (Interposing) I think this question is beyond the scope of the cross-examination at this time.

The Court will sustain the objection.

Q. (By Mr. Obenour continuing): Isn't it true that Mr. Forster's name does not appear on a single income tax form in any way on any company of which he had an interest with exception of Issaquah Creamery and his own personal tax return?

Mr. LeSourd: Objected to as irrelevant and immaterial.

The Court: Objection sustained.

Mr. Obenour: No further questions.

Mr. LeSourd: If there is further cross, I would

(Testimony of L. Hicks Taylor.)

like to have it be completed before our redirect, your Honor.

The Court: Mr. Griffin, this will go to the matters covered by Mr. Keesling and Mr. Obenour.

Mr. Griffin: Yes, your Honor, and on one item.

### Recross Examination

Q. (By Mr. Griffin): Mr. Taylor, I understood your testimony to be and I believe you stated—you stated about seven times—with reference to Exhibit 252, financial statement of February 28, 1948, that the cash on hand and in banks of \$293,848.11 was made up, as you testified, of \$93,848.11 shown as cash in the books of Alpine Dairy and the other two hundred thousand dollars was formulated on your analysis of the quick assets, is that it?

Mr. LeSourd: Objected to, your Honor, as improper recross. He went into it on his own cross-examination.

Mr. Griffin: This is preliminary to my question.

The Court: Objection overruled if it is a preliminary question.

Q. (By Mr. Griffin continuing): That is correct, is it not? A. Yes.

Q. Mr. Taylor, I will ask you if on May 5, 1948, you did not confer with the Peoples National Bank with Mr. Quinten H. Ellis, the credit manager, in connection with this statement of February 28, [4658] Exhibit 252, or a duplicate thereof.

Mr. LeSourd: Same objection, your Honor; also irrelevant and immaterial.

(Testimony of L. Hicks Taylor.)

The Court: Objection overruled.

A. I don't exactly remember, no.

Q. (By Mr. Griffin): I will ask you if it was not—if that is not the occasion to which you have testified you were secretly called to confer with the credit manager of the Peoples National Bank?

Mr. LeSourd: Objected to, your Honor. He says he doesn't remember the person.

The Court: Objection overruled.

A. I am afraid in saying secretly that I was a little bit strong. It wasn't secretly. They just phoned me. I didn't mean to make it appear that it was so secret, but I don't know, I do not remember whether it was Mr. Ellis or not.

Q. (By Mr. Griffin): I will ask you if on May 5, 1948, at the Peoples National Bank in your explanation of the assets shown on the statement of February 28, 1948, you did not state to Mr. Ellis in substance and effect that the cash on hand and in banks of 293 thousand dollars, of \$293,848.11, was in part Alpine Dairy [4659] operation and the remainder personal cash of Hans Forster?

A. No, I have no recollection of it.

Q. Would you say that you did not so state on that occasion on that date the substance of that question and answer to Mr. Ellis?

A. I would say that I did not say that.

Q. Mr. Taylor, on February 12, 1948, the date of that statement you had a conference at the Peoples National Bank with Phillip A. Strack, didn't you?

(Testimony of L. Hicks Taylor.)

Mr. LeSourd: Objected to.

A. I don't remember.

Mr. LeSourd: Just a moment, Mr. Taylor. Objected to as containing an improper statement. February 12th was not the date.

The Court: Is that the date of the statement?

Mr. Griffin: No, the date of a meeting. I am asking with reference to the statement of February 28th.

Q. (By Mr. Griffin): I ask you——

Mr. LeSourd: Just a moment.

Mr. Griffin: I will withdraw that question and reframe it. [4660]

Q. (By Mr. Griffin continuing): I will ask you if in February 1948 you did not have a conference at the Peoples National Bank with Phillip A. Strack involving the matter of borrowing—that is, Hans Forster borrowing—two hundred thousand dollars for the construction, estimated cost and partial construction, of the Alpine Ice Cream plant?

A. When you read the balance of it I do recollect a discussion of two hundred thousand dollars to build an ice cream plant.

Q. That was in February, 1948, wasn't it?

A. The date I do not remember.

Q. And the purpose of Exhibit 252, February 28, 1948, was to give the bank a true financial statement of Mr. Forster's position in connection with the contemplated two hundred thousand dollar loan, wasn't it?

A. I will say it is possible. The intent was to

(Testimony of L. Hicks Taylor.)

give Mr. Forster's operations, the various companies he was connected with.

Q. I will ask you if, in a conference at said time with Phillip A. Strack, at Peoples National Bank, you did not advise Mr. Strack that one hundred [4661] thousand dollars of this 293 thousand dollars was on deposit by Mr. Forster in the Washington State Bank, Issaquah, Washington?

Mr. LeSourd: I object, your Honor. It is a completely improper question. In the first place he testified that the conference with Strack was in February before this statement was prepared; the conference later on was with Ellis. Counsel is attempting to confuse this thing into one over all conference.

Mr. Griffin: I am asking strictly an impeaching question, if the Court please.

Mr. LeSourd: All right; let's fix the date and who was present. I object otherwise.

The Court: Well, the general objection will be overruled. As to time and place, it is fixed now in February.

Mr. Griffin: February, 1948, Peoples National Bank.

Mr. LeSourd: What date in February?

Mr. Griffin: I can come no closer than that, than the date of the conference with Mr. Phillip A. Strack.

The Court: February, 1948?

Mr. Griffin: February, 1948, yes, your [4662] Honor.

Mr. LeSourd: What was the question?



(Testimony of L. Hicks Taylor.)

Mr. Griffin: The question is whether, at a meeting in February, 1948, Phillip A. Strack, Peoples National Bank, Mr. Taylor did not advise Mr. Strack that Mr. Forster had on deposit in the Washington State Bank, Issaquah, approximately one hundred thousand dollars.

A. No, I did not advise him.

Mr. LeSourd: Just a moment, your Honor. I will move to strike both the question and answer. It is my recollection that Mr. Strack testified that he didn't know Mr. Taylor advised him, that he didn't know who advised him.

The Court: It is a foundation question?

Mr. Griffin: It is a foundation impeaching question.

Q. (By Mr. Griffin): Now——

The Court: Motion will be denied.

Q. (By Mr. Griffin continuing): Now, Mr. Taylor, in an endeavor to refresh your recollection I read you from Exhibit A-1 which are the notes of the—of Mr. Donaldson and Mr. Strack of the Peoples National [4663] Bank. This note is under date of February 12, 1948.

Following executive committee meeting of February 10, 1948, dealing with the application of a loan by Mr. Forster P.A.S. has had several discussions with Hans Forster and his accountant Hicks Taylor over financing of a new ice cream plant on their present property at 4058 Rainier Avenue.

Does that refresh your recollection of the conference with Mr. Strack?

(Testimony of L. Hicks Taylor.)

A. I was in probably one of five or six.

Mr. LeSourd: I will now renew my motion to strike the so-called impeaching question. He has now fixed the time and it is obviously prior to this statement of February 28th.

Mr. Griffin: I am afraid Counsel does not understand an impeaching question is asked because the impeaching witness will then be called. I am endeavoring to refresh recollection.

Mr. LeSourd: I would like to get a ruling.

The Court: Motion to strike will be denied.

Q. (By Mr. Griffin): You say "probably," Mr. Taylor. Have you any recollection of how many discussions in regard to this two hundred thousand dollar loan you had with either Mr. Strack or Mr. Donaldson? A. Yes.

Q. How many? A. Not to exceed one.

Q. One?

It is anticipated that the plant and equipment will cost approximately two hundred thousand dollars.

Does that refresh your recollection as to the application, or discussion?

A. The first discussion, yes.

Q. Well, you only had one, Mr. Taylor.

A. That is right. I said the first discussion.

Q. Well, the first discussion would be the last discussion too, wouldn't it?

A. So far as I am concerned.

Q. But when you said the first discussion just

(Testimony of L. Hicks Taylor.)

a moment ago you had in mind other discussions, didn't you?      A. I did not.

Q. It is anticipated that the plant and [4665] equipment will cost approximately two hundred thousand dollars and while they originally asked for a maximum loan they have now agreed that they can get by with a mortgage loan of one hundred thousand dollars.

Does that refresh your recollection?

A. It does not.

Q. That you were in the conference that got the loan reduced?

A. I was not. I was not present at any one hundred thousand dollar loan discussion.

Q. We have been supplied with financial statements as of December 31, 1947, from Issaquah Creamery Company, Inc.

Did you supply those, Mr. Taylor?

A. If they have them I prepared them.

Q. Alpine Dairy. Did you supply those?

A. I prepared them.

Q. You said, "If they have them." Have you any doubt as to any statement by Phillip A. Strack, President of the Peoples National Bank, as to its truth?

Mr. LeSourd: Object to that question, your Honor.

The Court: Objection sustained. [4666]

Q. (By Mr. Griffin): Apex Farms, financial statement supplied?      A. Yes.